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TITLE 17

PROFESSIONS, OCCUPATIONS, AND BUSINESSES

(CHAPTERS 29-79 IN VOLUME 17B; CHAPTERS 80-107 IN VOLUME 17C)

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SUBTITLE 1. PROFESSIONS GENERALLY

CHAPTER 1

GENERAL PROVISIONS

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SECTION.

17-1-110. Licensing of certain individuals
— Definitions.

Effective Dates. Acts 2021, No. 135, § 3: Feb. 23, 2021. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that current laws and administrative rules regarding the issuance of occupational licenses, certificates, and permits are barriers and create a hardship for uniformed service members, uniformed service veterans, and their spouses; that additional expedited processes, automatic licensure, and extended expiration dates of occupational licenses, certificates, and permits is needed to ensure that uniformed service members, uniformed service veterans, and their spouses may practice their chosen occupation or profession in the State of Arkansas; and that this act

is immediately necessary to remove barriers and hardships in obtaining occupational licenses, certificates, and permits for uniformed service members, uniformed service veterans, and their spouses. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

17-1-102. Liability of committee members of professional societies, review organizations, and hospital medical staffs — Definition.

CASE NOTES

Discovery.

Circuit court abused its discretion in denying a terminated surgeon's motions to compel production from the hospital of the peer review records of similarly situated physicians on the medical staff and the identities of physicians who complained about his treatment of patients;

the disputed discovery fit within the plain language of § 16-46-105(b)(2) because the discovery sought was in a legal action brought by a medical practitioner subjected to disciplinary action by a hospital medical-staff or medical-review committee. *Williams v. Baptist Health*, 2020 Ark. 150, 598 S.W.3d 487 (2020).

17-1-103. Registration, certification, and licensing for criminal offenders.

CASE NOTES

Construction.

Circuit court properly granted summary judgment to the Arkansas State Police (ASP) in an action by a towing company and an employee for injunctive and declaratory relief asserting that the ASP policy prohibiting individuals with felony convictions from placement on the ASP Towing Rotation List was illegal un-

der this section. Plaintiffs' suit was barred by sovereign immunity, because this section did not apply to ASP, as ASP did not deal in licensing or regulating the occupation of towing within the meaning of subsection (f) of this section, as required for this section to apply; thus, plaintiffs failed to demonstrate that the illegal-act exception to sovereign immunity applied.

Steve's Auto Ctr. of Conway, Inc. v. Ark. State Police, 2020 Ark. 58, 592 S.W.3d 695 (2020).

17-1-106. [Repealed.]

Publisher's Notes. This section, concerning automatic licensure for active duty service members, returning military veterans, spouses, was repealed by Acts 2021, No. 135, § 1, effective February 23,

2021. The section was derived from Acts 2013, No. 8, § 1; 2015, No. 848, § 1; 2017, No. 248, § 1; 2019, No. 820, § 2.

For current law, see § 17-4-101 et seq.

17-1-107. Reinstatement of licenses — Definition.

(a) An occupational licensing entity shall by rule adopt reduced requirements for reinstatement of a license, registration, permit, or certification for a person who:

(1) Demonstrates that he or she:

(A) Was previously licensed, registered, permitted, or certified to practice in the field of his or her profession at any time in this state;

(B) Held his or her license, registration, permit, or certification in good standing at the time of licensing, registration, permitting, or certification;

(C) Did not have his or her license, registration, permit, or certification revoked for:

(i) An act of bad faith; or

(ii) A violation of law, rule, or ethics;

(D) Is not holding a suspended or probationary license, registration, permit, or certification in any state; and

(E) Is sufficiently competent in his or her field; and

(2) Pays any reinstatement fee required by law.

(b) The occupational licensing entity may require that sufficient competency in a particular field be demonstrated by:

(1) Proficiency testing;

(2) Letters of recommendation; or

(3) Both proficiency testing and letters of recommendation.

(c)(1) Except as provided under subsection (b) of this section, the occupational licensing entity shall not require a person who meets the requirements of subsection (a) of this section to participate in the apprenticeship, education, or training required as a prerequisite to licensing, registration, permitting, or certification of a new professional in the field.

(2) The occupational licensing entity may require the person to participate in continuing education or training if the continuing education or training is required for all professionals in the field to maintain the license, registration, permit, or certification.

(d) A person shall not be required to comply with requirements under this section to obtain reinstatement of his or her license, registration, permit, or certification if the person meets the requirements for reciprocity.

(e) If a criminal background check is required of an applicant for an original license, registration, permit, or certification, or of a person currently holding a license, registration, permit, or certification, then the occupational licensing entity may require a person seeking reinstatement under this section to meet the same criminal background check requirements as the applicant for an original license, registration, permit, or certification, or as the person currently holding a license, registration, permit, or certification.

(f)(1) As used in this section, "occupational licensing entity" means an agency, office, council, bureau, board, commission, department, committee, or other authority of the government of the State of Arkansas, whether within or subject to review by another agency that has the duty to license, register, permit, certify, or otherwise approve a person to work in a particular field or industry.

(2) As used in subdivision (f)(1) of this section, "agency" does not include the General Assembly, the courts, or the Governor.

History. Acts 2015, No. 1066, § 1; 2019, No. 1011, § 1.

Amendments. The 2019 amendment, throughout the section, inserted "registration, permit, or certification" and inserted "occupational" and "permit"; deleted former (a); redesignated former (b) as (a) and redesignated the remaining subsections accordingly; in the introductory language

of (a), substituted "An occupational licensing entity" for "A licensing entity" and inserted "permit"; inserted "permitted" in (a)(1)(A); rewrote (e); in (f)(1), inserted "office, council, bureau" and deleted "except the General Assembly, the courts, and the Governor" following "another legacy"; added (f)(2); and made stylistic changes.

17-1-108. Expedited temporary and provisional licensure — Legislative intent — Definitions.

(a)(1) It is the intent of the General Assembly to ensure that an individual may be credentialed to work in Arkansas if he or she generally demonstrates the skills and ethics required by state law based on the individual's experience and credentials in another state.

(2) It is not the intent of the General Assembly to cause the licensing entity to engage in simple comparisons of the required hours of training and other personal qualifications under Arkansas's occupational licensing statutes with those qualifications required in the state where the individual is credentialed.

(b) As used in this section:

(1) "Individual" means a natural person, firm, association, partnership, corporation, or other entity that may hold an occupational license;

(2) "Occupational licensing entity" means an office, board, commission, committee, department, council, bureau, or other agency of state government having authority to license, certify, register, permit, or otherwise authorize an individual to engage in a particular occupation or profession; and

(3) "Occupational license" means a license, certificate, registration, permit, or other form of authorization required by law or rule that is required for an individual to engage in a particular occupation or profession.

(c) An occupational licensing entity shall by rule adopt the least restrictive requirements for an occupational license for an individual who:

(1) Demonstrates that he or she:

(A) Holds an occupational license that is substantially similar to practice in the field of his or her occupation or profession in another state, territory, or district of the United States;

(B) Holds his or her occupational license in good standing;

(C) Has not had his or her occupational license revoked for:

(i) An act of bad faith; or

(ii) A violation of law, rule, or ethics;

(D) Is not holding a suspended or probationary occupational license in any state, territory, or district of the United States; and

(E) Is sufficiently competent in his or her field; and

(2) Pays any occupational license fee required by law or rule.

(d)(1)(A) An occupational licensing entity shall comply with the requirements under subsection (c) of this section by adopting the least restrictive rule that allows for reciprocity or licensure by endorsement.

(B) The rule adopted under subdivision (d)(1)(A) of this section shall provide the procedure by which an occupational licensing entity shall grant a temporary and provisional occupational license for ninety (90) days or longer to an individual under subsection (c) of this section if presented with evidence of a current and active occupational license that is substantially similar to practice in the field of his or her occupation or profession in another state, territory, or district of the United States.

(2) If a state, territory, or district of the United States does not require an occupational license for a profession that requires an occupational license in this state, an occupational licensing entity shall adopt a rule that is least restrictive to permit an individual who is sufficiently competent in his or her field to obtain an occupational license for that occupation or profession in this state.

(3) The occupational licensing entity may require additional state-specific education for an individual with an occupational license in another state, territory, or district of the United States that does not offer reciprocity similar to reciprocity under this section to individuals with an occupational license in this state.

(e)(1) Except as provided under subdivision (e)(2) of this section, an occupational licensing entity shall not require an individual who meets the requirements of subsection (c) of this section to participate in the apprenticeship, education, or training required as a prerequisite to occupational license of a new professional in the field.

(2) The occupational licensing entity may require the individual to participate in continuing education or training if the continuing education or training is required for all professionals in the field to maintain the occupational license.

(f) If a criminal background check is required of an applicant for an initial occupational license or of an individual currently holding an

occupational license, then the occupational licensing entity may require an individual seeking his or her occupational license under this section to meet the same criminal background check requirements as the applicant for an initial occupational license or as the individual currently holding an occupational license.

(g) The occupational licensing entity may require the individual applying for an occupational license under this section to meet any bonding, financial statement, or insurance requirements that are applicable to all applicants.

(h) This section shall not apply to:

(1) Reciprocity or license by endorsement provisions under §§ 17-12-308, 17-26-315, 17-27-308, 17-28-306, 17-31-308, 17-36-304, 17-42-305, 17-43-307, 17-83-305, 17-88-305, 17-89-305, 17-90-302, 17-92-114, 17-92-308, 17-93-414, 17-97-306, 17-99-304, 17-100-304, and 17-103-302; or

(2) The occupational licensing entities that administer the reciprocity provisions under subdivision (h)(1) of this section.

(i) An occupational licensing entity may enter into written agreements with similar occupational licensing entities of another state, territory, or district of the United States as necessary to assure that licensees in this state have comparable nonresident licensing opportunities as those opportunities available to nonresidents by occupational licensing entities in this state.

History. Acts 2019, No. 426, § 3; 2019, No. 1011, § 2.

A.C.R.C. Notes. Acts 2019, No. 426, § 1, provided: "Title. This act shall be known and may be cited as the 'Red Tape Reduction Expedited Temporary and Provisional Licensure Act'."

Acts 2019, No. 426, § 2, provided: "Legislative findings and intent.

"(a) The General Assembly finds that:

"(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

"(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

"(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry; and

"(4) The Red Tape Reduction Working Group issued a final report to the Governor in the fall of 2018 with five (5) recommendations for substantive legislative reform, which are to:

"(A) Establish an expedited procedure for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation;

"(B) Extend Acts 2017, No. 781, to allow repeal of subsections of rules;

"(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

"(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

"(E) Establish a systematic process for review of:

"(i) New occupational licensure and occupational licensing entities; and

"(ii) Existing occupational licensure and occupational licensing entities.

"(b) It is the intent of the General Assembly to authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses."

Amendments. The 2019 amendment inserted "Legislative intent" in the section heading; and rewrote the section.

17-1-109. Workforce Freedom Act of 2021.

(a) This section shall be known and may be cited as the "Workforce Freedom Act of 2021".

(b) Unless specifically authorized by the General Assembly, cities, counties, or other political subdivisions of the state shall not enact a requirement for licensing, certification, or registration for any profession or occupation in a manner that duplicates a requirement for licensing, certification, or registration that is already enacted by the state.

History. Acts 2021, No. 567, § 1.

17-1-110. Licensing of certain individuals — Definitions.

(a) As used in this section:

(1) "Occupational or professional license" means a license, certificate, registration, permit, or other form of authorization required by law or rule for an individual to engage in a particular occupation or profession; and

(2) "Occupational or professional licensing entity" means an office, board, commission, department, council, bureau, or other agency of state government having authority to license, certify, register, permit, or otherwise authorize an individual to engage in a particular occupation or profession.

(b) An occupational or professional licensing entity shall grant an occupational or professional license under this section to an individual who fulfills the requirements to practice an occupation or profession in this state and is a person who holds a Federal Form I-766 United States Citizenship and Immigration Services-issued Employment Authorization Document, known popularly as a "work permit".

(c) This section is a state law within the meaning of subsection (d) of 8 U.S.C. § 1621, as existing on January 1, 2021.

History. Acts 2021, No. 746, § 1.

A.C.R.C. Notes. Acts 2021, No. 746, § 2, provided: "Rules implementing this act.

"(a) All occupational or professional licensing entities shall promulgate rules necessary to implement this act.

"(b)(1) When adopting the initial rules to implement this act, the final rule shall be filed with the Secretary of State for adoption under § 25-15-204(f):

"(A) On or before January 1, 2022; or

"(B) If approval under § 10-3-309 has not occurred by January 1, 2022, as soon as practicable after approval under § 10-3-309.

"(2) An occupational or professional licensing entity shall file the proposed rule with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2022, so that the Legislative Council may consider the rule for approval before January 1, 2022."

CHAPTER 2**KEEP ARKANSANS WORKING ACT OF 2019****SECTION.**

- 17-2-101. Title.
17-2-102. Purpose.
17-2-103. Definitions.

SECTION.

- 17-2-104. Student loans.
17-2-105. Scholarships.

17-2-101. Title.

This chapter shall be known and may be cited as the “Keep Arkansans Working Act of 2019”.

History. Acts 2019, No. 250, § 1.

17-2-102. Purpose.

It is the purpose of this chapter to ensure that hard-working Arkansans maintain occupational licenses while trying to maintain debt-free lives and trying not to be impoverished.

History. Acts 2019, No. 250, § 1.

17-2-103. Definitions.

As used in this chapter:

(1) “Default” means the failure to:

(A) Repay a student loan according to the terms agreed upon in a promissory note; or

(B) Satisfy the requirements and conditions of a work-conditional scholarship for repayment;

(2) “Delinquent” means the failure to:

(A) Make a student loan payment when the payment is due; or

(B) Satisfy the requirements and conditions of a work-conditional scholarship for repayment;

(3) “License” means a license, certificate, registration, permit, or other form of authorization required by law or rule that is required for an individual to engage in a particular occupation or profession;

(4) “Scholarship” means an award of financial aid to a student for education at a public or private institution of higher education;

(5) “State authority” means an office, board, commission, department, council, bureau, or other agency of state government having authority to license, certify, register, permit, or otherwise authorize an individual to engage in a particular occupation or profession; and

(6) “Student loan” means a loan guaranteed by the United States Government or state government for purposes of education at a public or private institution of higher education.

History. Acts 2019, No. 250, § 1.

17-2-104. Student loans.

Except as provided for rural medical practice student loans and scholarships under § 6-81-701 et seq., a state authority shall not suspend or revoke a license that has been issued to an individual solely on the basis of that individual's being:

- (1) In default on the repayment obligations required by one (1) or more student loans; or
- (2) Delinquent in the payment of one (1) or more student loans.

History. Acts 2019, No. 250, § 1.

17-2-105. Scholarships.

Except as provided for rural medical practice student loans and scholarships under § 6-81-701 et seq., a state authority shall not suspend or revoke a license that has been issued to an individual solely on the basis of that individual's being:

- (1) In default on the satisfaction of the requirements and conditions of a scholarship; or
- (2) Delinquent in the satisfaction of the requirements and conditions of a scholarship.

History. Acts 2019, No. 250, § 1.

CHAPTER 3**OCCUPATIONAL CRIMINAL BACKGROUND CHECKS****SECTION.**

17-3-101. Definitions.

17-3-102. Licensing restrictions based on criminal records.

SECTION.

17-3-103. Prelicensure criminal background checks.

17-3-104. Rules.

A.C.R.C. Notes. Acts 2019, No. 990, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly finds that:

"(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

"(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

"(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry; and

"(4) The Red Tape Reduction Working Group issued a final report to the Governor in the fall of 2018 with five (5) recommendations for substantive legislative reform, which are to:

"(A) Establish an expedited procedure for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation;

"(B) Extend Acts 2017, No. 781, to allow repeal of subsections of rules;

“(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

“(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

“(E) Establish a systematic process for review of:

“(i) New occupational licenses and occupational licensing entities; and

“(ii) Existing occupational licenses and occupational licensing entities.

“(b) It is the intent of the General Assembly to establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues.”

17-3-101. Definitions.

As used in this chapter:

(1) “Criminal record” means any type of felony or misdemeanor conviction;

(2) “License” means a license, certificate, registration, permit, or other form of authorization required by law or rule that is required for an individual to engage in a particular occupation or profession; and

(3) “Licensing entity” means an office, board, commission, department, council, bureau, or other agency of state government having authority to license, certify, register, permit, or otherwise authorize an individual to engage in a particular occupation or profession.

History. Acts 2019, No. 990, § 2.

17-3-102. Licensing restrictions based on criminal records.

(a) An individual is not eligible to receive or hold a license issued by a licensing entity if that individual has pleaded guilty or nolo contendere to or been found guilty of any of the following offenses by any court in the State of Arkansas or of any similar offense by a court in another state or of any similar offense by a federal court, unless the conviction was lawfully sealed under the Comprehensive Criminal Record Sealing Act of 2013, § 16-90-1401 et seq., or otherwise previously sealed, pardoned or expunged under prior law:

(1) Capital murder as prohibited in § 5-10-101;

(2) Murder in the first degree and second degree as prohibited in §§ 5-10-102 and 5-10-103;

(3) Manslaughter as prohibited in § 5-10-104;

(4) Negligent homicide as prohibited in § 5-10-105;

(5) Kidnapping as prohibited in § 5-11-102;

(6) False imprisonment in the first degree as prohibited in § 5-11-103;

(7) Permanent detention or restraint as prohibited in § 5-11-106;

(8) Robbery as prohibited in § 5-12-102;

(9) Aggravated robbery as prohibited in § 5-12-103;

(10) Battery in the first degree as prohibited in § 5-13-201;

(11) Aggravated assault as prohibited in § 5-13-204;

(12) Introduction of a controlled substance into the body of another person as prohibited in § 5-13-210;

(13) Aggravated assault upon a law enforcement officer or an employee of a correctional facility as prohibited in § 5-13-211, if a Class Y felony;

(14) Terroristic threatening in the first degree as prohibited in § 5-13-301;

(15) Rape as prohibited in § 5-14-103;

(16) Sexual indecency with a child as prohibited in § 5-14-110;

(17) Sexual extortion as prohibited in § 5-14-113;

(18) Sexual assault in the first degree, second degree, third degree, and fourth degree as prohibited in §§ 5-14-124 — 5-14-127;

(19) Incest as prohibited in § 5-26-202;

(20) Offenses against the family as prohibited in §§ 5-26-303 — 5-26-306;

(21) Endangering the welfare of an incompetent person in the first degree as prohibited in § 5-27-201;

(22) Endangering the welfare of a minor in the first degree as prohibited in § 5-27-205;

(23) Permitting the abuse of a minor as prohibited in § 5-27-221;

(24) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, pandering or possessing visual or print media depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, as prohibited in §§ 5-27-303 — 5-27-305, 5-27-402, and 5-27-403;

(25) Computer child pornography as prohibited in § 5-27-603;

(26) Computer exploitation of a child in the first degree as prohibited in § 5-27-605;

(27) Felony adult abuse as prohibited in § 5-28-103;

(28) Theft of property as prohibited in § 5-36-103;

(29) Theft by receiving as prohibited in § 5-36-106;

(30) Arson as prohibited in § 5-38-301;

(31) Burglary as prohibited in § 5-39-201;

(32) Felony violation of the Uniform Controlled Substances Act, § 5-64-101 et seq., as prohibited in the former § 5-64-401, and §§ 5-64-419 — 5-64-442;

(33) Promotion of prostitution in the first degree as prohibited in § 5-70-104;

(34) Stalking as prohibited in § 5-71-229;

(35) Criminal attempt, criminal complicity, criminal solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection; and

(36) All other crimes referenced in this title.

(b)(1) If an individual has been convicted of a crime listed in subsection (a) or subsection (e) of this section, a licensing entity may waive disqualification or revocation of a license based on the conviction if a request for a waiver is made by:

- (A) An affected applicant for a license; or
 - (B) The individual holding a license subject to revocation.
- (2) A basis upon which a waiver may be granted includes without limitation:
- (A) The age at which the offense was committed;
 - (B) The circumstances surrounding the offense;
 - (C) The length of time since the offense was committed;
 - (D) Subsequent work history since the offense was committed;
 - (E) Employment references since the offense was committed;
 - (F) Character references since the offense was committed;
 - (G) Relevance of the offense to the occupational license; and
 - (H) Other evidence demonstrating that licensure of the applicant does not pose a threat to the health or safety of the public.
- (3) The waiver requirements of this section are not required for a renewal of a license if an individual has been convicted of a crime listed in subsection (a) of this section and has either:
- (A) Completed the waiver requirements of this section at his or her initial licensure;
 - (B) Been licensed in this state before the enactment of subsection (a) of this section; or
 - (C) Attended a professional or occupational school, program, or training in pursuit of an occupational license before the enactment of subsection (a) of this section and would have been qualified to hold an occupational license on or before July 24, 2019.
- (c) If an individual has a valid criminal conviction for an offense that could disqualify the individual from receiving a license, the disqualification shall not be considered for more than five (5) years from the date of conviction or incarceration or on which probation ends, whichever date is the latest, if the individual:
- (A) Was not convicted for committing a violent or sexual offense; and
 - (B) Has not been convicted of any other offense during the five-year disqualification period.
- (d) A licensing entity shall not, as a basis upon which a license may be granted or denied:
- (1) Use vague or generic terms, including without limitation the phrases “moral turpitude” and “good character”; or
 - (2) Consider arrests without a subsequent conviction.
- (e) Due to the serious nature of the offenses, the following shall result in disqualification for licensure, regardless of the date of conviction or the date on which probation or incarceration ends unless a waiver is granted under subsection (b) of this section:
- (1) Capital murder as prohibited in § 5-10-101;
 - (2) Murder in the first degree as prohibited in § 5-10-102 and murder in the second degree as prohibited in § 5-10-103;
 - (3) Kidnapping as prohibited in § 5-11-102;
 - (4) Aggravated assault upon a law enforcement officer or an employee of a correctional facility as prohibited in § 5-13-211, if a Class Y felony;

- (5) Rape as prohibited in § 5-14-103;
- (6) Sexual extortion as prohibited in § 5-14-113;
- (7) Sexual assault in the first degree as prohibited in § 5-14-124 and sexual assault in the second degree as prohibited in § 5-14-125;
- (8) Incest as prohibited in § 5-26-202;
- (9) Endangering the welfare of an incompetent person in the first degree as prohibited in § 5-27-201;
- (10) Endangering the welfare of a minor in the first degree as prohibited in § 5-27-205;
- (11) Adult abuse that constitutes a felony as prohibited in § 5-28-103;
- (12) Arson as prohibited in § 5-38-301; and
- (13) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, pandering or possessing visual or print media depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, as prohibited in §§ 5-27-303 — 5-27-305, 5-27-402, and 5-27-403.

(f) This chapter does not preclude a licensing entity from taking emergency action against a licensee as authorized under § 25-15-211 for the sake of public health, safety, or welfare.

(g) The disqualification for an offense listed in subsection (a) of this section and the disqualification for an offense listed in subsection (e) of this section do not apply to:

- (1) An individual who holds a valid license on July 24, 2019;
 - (2) An individual who holds a valid license on or before July 24, 2019, but failed to renew his or her license for any reason; or
 - (3) An individual who was a student on or before July 24, 2019, in a professional or occupational school, program, or training in pursuit of an occupational license and would have been qualified to hold an occupational license on or before July 24, 2019.
- (h) This section does not apply to licensure or certification:
- (1) Of professions not governed by this title;
 - (2) Of polygraph examiners and voice stress analysis examiners under § 17-39-101 et seq.;
 - (3) Of private investigators and private security agencies under the Private Security Agency, Private Investigator, and School Security Licensing and Credentialing Act, § 17-40-101 et seq.; or
 - (4) Of body artists under § 17-26-601 et seq.

History. Acts 2019, No. 990, § 2; 2021, No. 748, §§ 1-3; 2021, No. 762, §§ 1, 2; 2021, No. 826, § 1; 2021, No. 900, § 1.

Amendments. The 2021 amendment by No. 748 inserted “or subsection (e)” in (b)(1); in the introductory language of (e), deleted “permanent” preceding “disqualification” and added “regardless of the date of conviction or the date on which proba-

tion or incarceration ends unless a waiver is granted under subsection (b) of this section”; and, in (g), deleted “permanent” preceding “disqualification” and inserted “subsection (a) or”.

The 2021 amendment by No. 762 added (b)(3); added “The disqualification for an offense listed in subsection (a) of this section and” in (g); redesignated former

provisions of (g) as (g)(1); and added (g)(2) and (g)(3).

The 2021 amendment by No. 900 added (h)(4).

The 2021 amendment by No. 826 added (e)(13).

17-3-103. Prelicensure criminal background checks.

(a)(1) An individual with a criminal record may petition a licensing entity at any time for a determination of whether the criminal record of the individual will disqualify the individual from licensure and whether or not he or she could obtain a waiver under § 17-3-102(b).

(2) The petition shall include details on the criminal record of the individual.

(b)(1) A licensing entity may require that the applicant undergo a state and federal criminal background check as required by the licensing entity for all applicants for a license.

(2) The petitioner under subsection (a) of this section shall be responsible for payment for the state and federal criminal background check.

History. Acts 2019, No. 990, § 2.

17-3-104. Rules.

(a) A licensing entity shall adopt or amend rules necessary for the implementation of this chapter.

(b)(1) When adopting or amending rules to implement this chapter, the final rule shall be filed with the Secretary of State for adoption under § 25-15-204(f):

(A) On or before January 1, 2020; or

(B) If approval under § 10-3-309 has not occurred by January 1, 2020, as soon as practicable after approval under § 10-3-309.

(2) A licensing entity shall file the proposed rule with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2020, so that the Legislative Council may consider the rule for approval before January 1, 2020.

History. Acts 2019, No. 990, § 2.

CHAPTER 4

ARKANSAS OCCUPATIONAL LICENSING OF UNIFORMED SERVICE MEMBERS, VETERANS, AND SPOUSES ACT OF 2021

SECTION.

17-4-101. Title.

17-4-102. Legislative findings and intent.

17-4-103. Definitions.

17-4-104. Applicability.

17-4-105. Automatic occupational licensure.

SECTION.

17-4-106. Expedited occupational licensure.

17-4-107. Acceptance of uniformed service education, training, or service-issued credential.

17-4-108. Extension of license expiration

SECTION.

and continuing education requirements.

17-4-109. Legislative oversight of rules.

SECTION.

17-4-110. Responsibilities of occupational licensing entities.

Effective Dates. Acts 2021, No. 135, § 3: Feb. 23, 2021. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that current laws and administrative rules regarding the issuance of occupational licenses, certificates, and permits are barriers and create a hardship for uniformed service members, uniformed service veterans, and their spouses; that additional expedited processes, automatic licensure, and extended expiration dates of occupational licenses, certificates, and permits is needed to ensure that uniformed service members, uniformed service veterans, and their spouses may practice their chosen occupation or profession in the State of Arkansas; and that this act

is immediately necessary to remove barriers and hardships in obtaining occupational licenses, certificates, and permits for uniformed service members, uniformed service veterans, and their spouses. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

17-4-101. Title.

This chapter shall be known and may be cited as the "Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021".

History. Acts 2021, No. 135, § 2.

17-4-102. Legislative findings and intent.

(a) The General Assembly finds that:

(1) Arkansas sets the bar as a national leader in addressing employment barriers faced by uniformed service members, uniformed service veterans, and their spouses in attaining occupational licensure;

(2) Arkansas is one (1) of only four (4) states to successfully address eight (8) or more of the ten (10) issues affecting uniformed service families identified by the United States Department of Defense;

(3) Of the United States Department of Defense's ten (10) issues in fiscal year 2020, four (4) of the issues concern occupational licensure of spouses of uniformed service members;

(4) Annually, fourteen and five-tenths percent (14.5%) of spouses of uniformed service members move across state lines as opposed to one and one-tenth percent (1.1%) of civilians;

(5) States can continue to improve the attainment of occupational licensure and to eliminate barriers impeding employment of spouses of uniformed service members following a move across state lines;

(6) Acts 2019, No. 820, established provisions for the granting of automatic occupational licensure or expedited occupational licensure to active-duty service members, recently separated veterans, and their spouses who hold occupational licensure in good standing in another jurisdiction; and

(7) Additional steps need to be taken to clarify, simplify, and elevate the occupational licensure process for uniformed service members, uniformed service veterans, and their spouses.

(b) It is the intent of the General Assembly to address occupational licensure barriers that impede the launch and sustainability of civilian occupational careers and employment faced by uniformed service members, uniformed service veterans, and their spouses due to frequent uniformed service assignment by:

(1) Providing:

(A) Automatic occupational licensure or expedited occupational licensure to current license holders to expedite their entry into the workforce of this state;

(B) Temporary or provisional licensure to initial licensure candidates while expediting full licensure;

(C) Legislative oversight of rulemaking by occupational licensing entities to ensure removal of occupational licensure barriers faced by uniformed service members, uniformed service veterans, and their spouses; and

(D) Guidance to assure effective rulemaking and clear license application instructions to uniformed service members, uniformed service veterans, and their spouses;

(2) Recognizing uniformed service education, training, experience, and credentials of uniformed service members and uniformed service veterans applying for initial occupational licensure; and

(3) Extending licensure expiration and any continuing education required for occupational licensure renewal when a uniformed service member is deployed.

History. Acts 2021, No. 135, § 2.

17-4-103. Definitions.

As used in this chapter:

(1) “Automatic occupational licensure” means the granting of occupational licensure without an individual’s having met occupational licensure requirements provided under this title or by the rules of the relevant occupational licensing entity;

(2) “Occupational licensing entity” means an office, board, commission, department, council, bureau, or other agency of state government having authority to license, certify, register, permit, or otherwise authorize an individual to engage in a particular occupation or profession, not including occupations or professions within the judicial branch of government or occupations or professions subject to the superintending control of the Supreme Court;

(3) "Occupational licensure" means a license, certificate, registration, permit, or other form of authorization required by law or rule that is required for an individual to engage in a particular occupation or profession;

(4) "Uniformed service member" means:

(A) An active or reserve component member of the United States Air Force, United States Army, United States Coast Guard, United States Marine Corps, United States Navy, United States Space Force, or National Guard;

(B) An active component member of the National Oceanic and Atmospheric Administration Commissioned Officer Corps; or

(C) An active or reserve component member of the United States Commissioned Corps of the Public Health Service; and

(5) "Uniformed service veteran" means a former member of the United States uniformed services discharged under conditions other than dishonorable.

History. Acts 2021, No. 135, § 2.

17-4-104. Applicability.

Unless otherwise stated in this chapter, this chapter applies to:

(1) A uniformed service member stationed in the State of Arkansas;

(2) A uniformed service veteran who resides in or establishes residency in the State of Arkansas; and

(3) The spouse of:

(A) A person listed in subdivision (1) or subdivision (2) of this section;

(B) A uniformed service member who is assigned a tour of duty that excludes the uniformed service member's spouse from accompanying the uniformed service member and the spouse relocates to this state; and

(C) A uniformed service member who is killed or succumbs to his or her injuries or illness in the line of duty if the spouse establishes residency in the state.

History. Acts 2021, No. 135, § 2.

17-4-105. Automatic occupational licensure.

An occupational licensing entity shall grant automatic occupational licensure to engage in an occupation or profession to an individual who is:

(1) Listed in § 17-4-104; and

(2) The holder in good standing of occupational licensure with similar scope of practice issued by another state, territory, or district of the United States.

History. Acts 2021, No. 135, § 2.

17-4-106. Expedited occupational licensure.

(a)(1) An occupational licensing entity may submit proposed rules recommending an expedited process for the attainment of occupational licensure instead of automatic occupational licensure as provided under § 17-4-105 to the Administrative Rules Subcommittee of the Legislative Council.

(2) The proposed rules described in subdivision (a)(1) of this section shall include temporary or provisional occupational licensure provisions with a term of ninety (90) days or more.

(3) The occupational licensing entity shall provide automatic occupational licensure if the proposed expedited occupational licensure rules are not approved as required by § 17-4-109.

(b)(1) An occupational licensing entity shall expedite the process for initial occupational licensure for an individual who is listed in § 17-4-104.

(2) An occupational licensing entity shall provide the applicant under subdivision (b)(1) of this section with a temporary or provisional license upon receipt of required documentation or the successful completion of any examination required by the relevant occupational licensing entity to enable the applicant to secure employment in his or her occupation or profession.

History. Acts 2021, No. 135, § 2.

17-4-107. Acceptance of uniformed service education, training, or service-issued credential.

An occupational licensing entity shall accept relevant and applicable uniformed service education, training, or service-issued credential toward occupational licensure qualifications or requirements when considering an application for initial licensure of an individual who is:

- (1) A uniformed service member; or
- (2) A uniformed service veteran who makes an application within one (1) year of his or her discharge from uniformed service.

History. Acts 2021, No. 135, § 2.

17-4-108. Extension of license expiration and continuing education requirements.

(a) An occupational licensing entity shall extend the expiration date of an occupational licensure for a deployed uniformed service member or his or her spouse for one hundred eighty (180) days following the date of the uniformed service member's return from deployment.

(b)(1) An occupational licensing entity shall allow a full or partial exemption from a continuing education requirement that is required as a component of occupational licensure for an individual who is listed in subsection (a) of this section until one hundred eighty (180) days

following the date of the uniformed service member's return from deployment.

(2) An occupational licensing entity that allows full or partial exemption from continuing education requirements may require evidence of completion of continuing education before granting a subsequent occupational licensure or authorizing the renewal of an occupational licensure.

History. Acts 2021, No. 135, § 2.

17-4-109. Legislative oversight of rules.

(a) The Administrative Rules Subcommittee of the Legislative Council shall:

(1) Review the proposed rules of an occupational licensing entity as submitted for public comment at least thirty (30) days before the public comment period ends under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.; and

(2) Approve the proposed rules submitted under § 17-4-106 based on:

(A) A determination of whether the expedited process provides the least restrictive means of attaining occupational licensure; and

(B) Any other criteria the Administrative Rules Subcommittee of the Legislative Council determines necessary to achieve the objectives of this section.

(b) The Administrative Rules Subcommittee of the Legislative Council may:

(1) Establish a further subcommittee to assist in the duties assigned to the Administrative Rules Subcommittee of the Legislative Council under this section;

(2) Assign information filed with the Administrative Rules Subcommittee of the Legislative Council under this section to one (1) or more subcommittees of the Legislative Council, including without limitation a subcommittee created under subdivision (b)(1) of this section; or

(3) Delegate the duties of the Administrative Rules Subcommittee of the Legislative Council under this section to one (1) or more subcommittees of the Legislative Council, which shall be subject to the final review and approval of the Administrative Rules Subcommittee of the Legislative Council.

History. Acts 2021, No. 135, § 2.

17-4-110. Responsibilities of occupational licensing entities.

An occupational licensing entity shall:

(1) Submit proposed rules authorized under § 17-4-106 to the Administrative Rules Subcommittee of the Legislative Council for review and approval before the proposed rules are promulgated under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.;

(2) If the proposed rules are not approved as required under § 17-4-109, provide automatic occupational licensure to an individual listed in § 17-4-104;

(3) Post prominently on the occupational licensing entity's website a link entitled "Military Member Licensure" that directly leads to information applicable to an individual listed in § 17-4-104; and

(4) Provide to the House Committee on Aging, Children and Youth, Legislative and Military Affairs an annual report stating the number of individuals granted automatic occupational licensure and expedited occupational licensure under this chapter.

History. Acts 2021, No. 135, § 2.

CHAPTER 5

WORKFORCE EXPANSION ACT OF 2021 [EFFECTIVE JANUARY 1, 2022]

SECTION.

17-5-101. Title. [Effective January 1, 2022.]

17-5-102. Legislative findings — Purpose. [Effective January 1, 2022.]

17-5-103. Definitions. [Effective January 1, 2022.]

SECTION.

17-5-104. Fee waiver. [Effective January 1, 2022.]

17-5-105. Licensing entity duties. [Effective January 1, 2022.]

Effective Dates. Acts 2021, No. 725,
§ 3: Jan. 1, 2022.

17-5-101. Title. [Effective January 1, 2022.]

This chapter shall be known and may be cited as the "Workforce Expansion Act of 2021".

History. Act 2021, No. 725, § 2.

Effective Dates. Acts 2021, No. 725,
§ 3: Jan. 1, 2022.

17-5-102. Legislative findings — Purpose. [Effective January 1, 2022.]

(a) The General Assembly finds that:

(1) Entrepreneurs and workers must pay various fees in order to work in a government-regulated profession or occupation or to start a small business in Arkansas;

(2) Families trying to break the cycle of government dependency should not have to pay the state to earn a living; and

(3) Arkansas should waive initial fees associated with occupational and professional regulations and the formation of a business for low-income individuals.

(b) It is the purpose of this chapter to increase access to professional and occupational licenses that would otherwise be cost prohibitive for certain individuals.

History. Act 2021, No. 725, § 2.

Effective Dates. Acts 2021, No. 725,

§ 3: Jan. 1, 2022.

17-5-103. Definitions. [Effective January 1, 2022.]

As used in this chapter:

(1) "License" means a license, certificate, registration, permit, or other form of authorization required by law or rule that is required for an individual to engage in a particular occupation or profession; and

(2)(A) "Licensing entity" means an office, board, commission, department, council, bureau, or other agency of state government having authority to license, certify, register, permit, or otherwise authorize an individual to engage in a particular occupation or profession.

(B) "Licensing entity" does not include a political subdivision of the state or any other local or regional governmental entity, including without limitation a city of the first class, a city of the second class, an incorporated town, or a county.

History. Act 2021, No. 725, § 2.

Effective Dates. Acts 2021, No. 725,

§ 3: Jan. 1, 2022.

17-5-104. Fee waiver. [Effective January 1, 2022.]

(a) Notwithstanding any law to the contrary, a licensing entity shall not require an initial fee for individuals who are seeking to receive a license in this state if the applicant:

(1) Is receiving assistance through the Arkansas Medicaid Program, the Supplemental Nutrition Assistance Program, the Special Supplemental Nutrition Program for Women, Infants, and Children, the Temporary Assistance for Needy Families Program, or the Lifeline Assistance Program;

(2) Was approved for unemployment within the last twelve (12) months; or

(3) Has an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.

(b) The waiver of the initial fee does not include fees for:

(1) A criminal background check;

(2) An examination or a test; or

(3) A medical or drug test.

(c) The Department of Human Services and the Division of Workforce Services shall collaborate with a licensing entity concerning

verification of eligibility for public benefits for applicants, which may include obtaining a signed consent form from the applicant.

History. Act 2021, No. 725, § 2.

Effective Dates. Acts 2021, No. 725,

§ 3: Jan. 1, 2022.

17-5-105. Licensing entity duties. [Effective January 1, 2022.]

A licensing entity shall:

(1) Publish notice of the fee waiver on:

(A) The website maintained by the licensing entity; and

(B) Any relevant forms that an applicant is required to complete; and

(2) Promulgate any necessary rules to implement this chapter.

History. Act 2021, No. 725, § 2.

Effective Dates. Acts 2021, No. 725,

§ 3: Jan. 1, 2022.

CHAPTER 6

EARN AND LEARN ACT [EFFECTIVE JANUARY 1, 2022]

SECTION.

17-6-101. Title. [Effective January 1, 2022.]

17-6-102. Legislative findings — Purpose. [Effective January 1, 2022.]

17-6-103. Definitions. [Effective January 1, 2022.]

SECTION.

17-6-104. Treatment of apprenticeships regarding licenses. [Effective January 1, 2022.]

17-6-105. Construction. [Effective January 1, 2022.]

A.C.R.C. Notes. Acts 2021, No. 811, § 2, provided: “Rules.

“(a) All licensing entities as required under this act shall promulgate rules necessary to implement this act.

“(b)(1) When adopting the initial rules to implement this act, the final rule shall be filed with the Secretary of State for adoption under § 25-15-204(f):

“(A) On or before January 1, 2022; or

“(B) If approval under § 10-3-309 has not occurred by January 1, 2022, as soon

as practicable after approval under § 10-3-309.

“(2) A licensing entity shall file the proposed rule with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2022, so that the Legislative Council may consider the rule for approval before January 1, 2022.”

Effective Dates. Acts 2021, No. 811, § 3: Jan 1, 2022.

17-6-101. Title. [Effective January 1, 2022.]

This chapter shall be known and may be cited as the “Earn and Learn Act”.

History. Act 2021, No. 811, § 1.

Effective Dates. Acts 2021, No. 811,

§ 3: Jan. 1, 2022.

17-6-102. Legislative findings — Purpose. [Effective January 1, 2022.]

(a) The General Assembly finds that:

(1) Apprenticeships prioritize on-the-job training and provide workers the opportunity to earn a paycheck while working towards industry-recognized credentials;

(2) Apprenticeships allow employers to build a skilled workforce according to industry standards; and

(3) Occupational licensing prevents the citizens of this state from taking full advantage of apprenticeships because many apprenticeship-friendly jobs require a license to legally work in this state.

(b) It is the purpose of this chapter to allow individuals to work and earn a paycheck while also fulfilling licensing requirements and gaining the skills to fill the needs of an expanding workforce.

History. Act 2021, No. 811, § 1.

Effective Dates. Acts 2021, No. 811,

§ 3: Jan. 1, 2022.

17-6-103. Definitions. [Effective January 1, 2022.]

As used in this chapter:

(1) “Apprenticeship” means a program that meets the federal guidelines set out in 29 C.F.R. Part 29, as existing on March 1, 2021, and existing programs currently implementing work requirements as approved by the United States Office of Apprenticeship as meeting the requirements of an apprenticeship;

(2) “License” means a license, certificate, registration, permit, or other form of authorization required by law or rule that is required for an individual to engage in a particular occupation or profession; and

(3) “Licensing entity” means an office, board, commission, department, council, bureau, or other agency of state government having authority to license, certify, register, permit, or otherwise authorize an individual to engage in a particular occupation or profession.

History. Act 2021, No. 811, § 1.

Effective Dates. Acts 2021, No. 811,

§ 3: Jan. 1, 2022.

17-6-104. Treatment of apprenticeships regarding licenses. [Effective January 1, 2022.]

(a) A licensing entity shall grant a license to an applicant who:

(1) Completes an apprenticeship in the licensed occupation or profession;

(2) Passes an examination, if deemed to be necessary by the licensing entity;

(3) Pays any fees deemed necessary by the licensing entity;

(4) Does not have a disqualifying criminal record as determined by the licensing entity under state law; and

(5) Completes all other requirements for licensure unrelated to training and education.

(b) If a licensing entity denies a license to an applicant under this chapter, the licensing entity shall:

(1) Provide the applicant with a denial in writing; and

(2) Explain the reason for the denial in the written decision, such as whether the licensing entity determined that the applicant's apprenticeship program does not correspond to the profession or occupation or level of license for which the applicant applied.

(c)(1) A licensing entity shall establish a passing score for examinations that does not exceed the passing score required under the standard licensing processes.

(2) If the licensing entity does not require an examination for the standard licensing process for a profession or occupation, an applicant who completes an apprenticeship for the profession or occupation is not required to pass an examination.

(d)(1) A licensing entity shall establish a licensing fee that does not exceed the licensing fee required under the standard licensing processes.

(2) If the licensing entity does not require a fee for the standard licensing process for a profession or occupation, an applicant who completes an apprenticeship in the profession or occupation is not required to pay a fee.

(e) Except as otherwise required by federal law, an apprenticeship for a profession or occupation is not required to exceed the number of hours required by the licensing entity for the profession or occupation.

History. Act 2021, No. 811, § 1.

Effective Dates. Acts 2021, No. 811,
§ 3: Jan. 1, 2022.

17-6-105. Construction. [Effective January 1, 2022.]

This chapter does not apply to:

(1) A licensing entity that does not license individual workers for which there is an apprenticeship program established under 29 C.F.R. Part 29, as existing on March 1, 2021;

(2) A license that requires the educational equivalent of a bachelor's degree or higher; or

(3) A license issued by the State Board of Barber Examiners or the Department of Health regarding cosmetology.

History. Act 2021, No. 811, § 1.

Effective Dates. Acts 2021, No. 811,
§ 3: Jan. 1, 2022.

CHAPTERS 7-9

[Reserved.]

SUBTITLE 2. NONMEDICAL PROFESSIONS

CHAPTER 11
ABSTRACTERS

SUBCHAPTER.

3. CERTIFICATION.

SUBCHAPTER 3 — CERTIFICATION

SECTION.

- 17-11-302. Certificate of registration — Application.
17-11-304. Certificate of registration — Issuance or reapplication.
17-11-305. Certificate of registration — Temporary.

SECTION.

- 17-11-340. Revocation of certificates — Grounds.
17-11-341. Revocation of certificates — Procedure — Appeal.

17-11-302. Certificate of registration — Application.

(a) Any person desiring to become a registered abstracter under this chapter shall make application to the Arkansas Abstracters' Board for registration.

(b) The application shall be in a form prepared by the board and shall contain such information as may be necessary to assist the board in registration.

(c) Except as provided in subsection (e) of this section, each application shall be accompanied by an examination fee in the sum of twenty-five dollars (\$25.00).

(d) Thereupon the board shall notify the applicant of the time and place of the next scheduled examination, and notice of the examination shall be given to the applicant by mail.

(e) Any person authorized to practice law in this state shall be issued a certificate of registration upon application, without examination and payment of fee.

History. Acts 1969, No. 109, § 5; A.S.A. 1947, § 71-105; Acts 2007, No. 1042, § 4; 2019, No. 990, § 3.

Amendments. The 2019 amendment

deleted "and to determine if the applicant is of good moral character" following "registration" in (b).

17-11-304. Certificate of registration — Issuance or reapplication.

(a) If the applicant satisfactorily passes the examinations, the applicant shall be certified as a registered abstractor, and the certificate provided for shall be issued to him or her. The privileges granted by the certificate shall continue unless revoked, as provided in this chapter, or unless the certificate is otherwise surrendered to the Arkansas Abstracters' Board.

(b) The certificate shall be in a form prescribed by the board and shall attest that the person possesses the knowledge, skill, ability, and understanding of abstracting and is designated a registered abstractor. The certificate shall be prominently displayed in the abstract office wherein the person is employed.

(c) An applicant failing to satisfy the board that he or she possesses the qualifications or proficiency to become a registered abstractor may reapply for registration if the application is accompanied by the examination fee provided for in § 17-11-302(c), but no application shall be submitted sooner than six (6) months following the date on which the last previous examination was administered to the applicant.

(d) Each holder of a certificate shall pay an annual fee to be set by the board.

History. Acts 1969, No. 109, § 5; A.S.A. 1947, § 71-105; Acts 2007, No. 1042, § 6; 2019, No. 990, § 4. deleted "and is of good moral character" following "examinations" in the first sentence of (a).

Amendments. The 2019 amendment

17-11-305. Certificate of registration — Temporary.

(a) The Arkansas Abstracters' Board upon application to it by any person succeeding to the ownership of any abstract plant or business by any means other than by purchase, or any person who by reason of the incapacity of any registered abstractor owner of any abstract plant or business is required to assume the operation of the abstract plant or business, may grant to the person without examination a temporary certificate of registration.

(b) The fee for a temporary certificate of registration shall be fifteen dollars (\$15.00).

(c) This certificate shall expire six (6) months after its date or upon the expiration of sixty (60) days after the next regularly scheduled examinations which could be taken by the applicant under the rules of the board, whichever period is longer.

(d) The board shall notify the applicant by mail of the time and place of the examination.

History. Acts 1969, No. 109, § 5; A.S.A. 1947, § 71-105; Acts 2007, No. 1042, § 7; 2019, No. 315, § 1325.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (c).

17-11-340. Revocation of certificates — Grounds.

(a) The Arkansas Abstracters' Board is authorized, after a hearing as provided in § 17-11-341, to cancel and revoke any certificate of registration issued to any person under the provisions of this chapter:

- (1) For a violation of any of the provisions of this chapter;
- (2) Upon a conviction of the holder of such a certificate of a crime under § 17-3-102; or

(3) If the board finds the holder to be guilty of habitual carelessness or of fraudulent practices in the conduct of the business of abstracting.

(b) The board is authorized, after a hearing as provided in § 17-11-341, to cancel and revoke any certificate of authority issued to any person, firm, or corporation under the provisions of this chapter for:

- (1) Failure to furnish the bond or bonds, or other securities, required by § 17-11-324;
- (2) Failure to properly maintain an abstract plant;
- (3) Failure to have employed a registered abstracter as provided in § 17-11-301; or
- (4) Otherwise violating any of the provisions of this chapter.

History. Acts 1969, No. 109, § 8; A.S.A. substituted "crime under § 17-3-102" for 1947, § 71-108; Acts 2007, No. 1042, § 12; "crime involving moral turpitude" in 2019, No. 990, § 5. (a)(2).

Amendments. The 2019 amendment

17-11-341. Revocation of certificates — Procedure — Appeal.

(a)(1) Upon a verified complaint's being filed with the Arkansas Abstracters' Board or upon the board's own motion filing a complaint charging the holder of a certificate of registration with a violation of any of the provisions of this chapter, or conviction of a crime under § 17-3-102, or habitual carelessness or fraudulent practices in the conduct of the business of abstracting, or charging the holder of a certificate of authority with failure to furnish the bond or bonds, or other securities, required by § 17-11-324, or with failing to have employed a registered abstracter as provided in § 17-11-301, or with a violation of any of the provisions of this chapter, the board shall immediately notify in writing by registered mail, with return receipt, the holder of the certificate of the filing of the complaint and furnish the holder with a copy of the complaint.

(2) The board shall at the same time require the holder of the certificate to appear before it on a day fixed by the board, not less than twenty (20) days nor more than forty (40) days from the date of the service of the complaint on the holder of the certificate, and to show cause why the certificate should not be cancelled and revoked.

(3) Under the hand of its chair and the seal of the board, the board may subpoena witnesses and compel their attendance and may require the production of books, papers, and other documents.

(4) The chair or secretary-treasurer may administer oaths or affirmations to witnesses appearing before the board.

(5)(A) If any person refuses to obey any subpoena so issued or refuses to testify or to produce any books, papers, or other documents, the board may present its petition to any court of record, setting forth the facts.

(B) Thereupon the court shall, in a proper case, issue its subpoena to the person requiring his or her attendance before the court and there to testify or produce such books, papers, and documents as may be deemed necessary and pertinent.

(6) The holder of the certificate shall be entitled to counsel at any hearing before the board or any other hearing involving revocation of his or her certificate.

(7) The board shall cause a transcript of any testimony taken to be made by a reporter or stenographer.

(b)(1)(A) Either the respondent or the complainant may appeal from the decision of the board to the circuit court in the county in which the respondent has his or her or its place of business.

(B) The appeal shall be taken within thirty (30) days after the decision of the board by causing a written notice of appeal to be served on the secretary-treasurer of the board and executing a bond to the State of Arkansas, with surety to be approved by the secretary-treasurer of the board, conditioned to pay all costs that may be adjudged against the appellant.

(2) Upon an appeal's being taken, the secretary-treasurer of the board shall immediately make out a return of the proceedings in the matter before the board with its decision thereon and file them together with the bond and all the papers pertaining thereto in his or her possession, including a certified record of testimony taken at the hearing, with the clerk of the court to which the appeal is taken.

(3) The court shall hear the appeal as a trial de novo, and the costs of the appeal, including the furnishing of the testimony, shall be taxed as the court may direct.

(4) An appeal shall stay the cancellation of any certificate of registration or certificate of authority until the final decision is had on appeal.

History. Acts 1969, No. 109, § 8; A.S.A. substituted "under § 17-3-102, or habitual" for "involving moral turpitude, or 1947, § 71-108; Acts 2007, No. 1042, § 13; with habitual" in (a)(1). 2019, No. 990, § 6.

Amendments. The 2019 amendment

CHAPTER 12

ACCOUNTANTS

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ARKANSAS STATE BOARD OF PUBLIC ACCOUNTANCY.
3. INITIAL LICENSURE.
4. REGISTRATION OF FIRMS.
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SUBCHAPTER.

6. REVOCATION AND SUSPENSION.

RESEARCH REFERENCES

ALR. Privileged Communications Between Accountant and Client — General Principles, Evidentiary Considerations, and Attorney-Client Privilege Implications. 26 A.L.R.7th Art. 3 (2017).

Privileged Communications Between Accountant and Client — Limitations or Restrictions, Waiver, and Persons Entitled to Invoke. 26 A.L.R.7th Art. 8 (2017).

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

17-12-103. Definitions.

17-12-106. Unlawful acts — Definition.

SECTION.

17-12-108. CPA construed.

17-12-103. Definitions.

(a) As used in this chapter:

(1) “AICPA” means the American Institute of Certified Public Accountants, or its successor;

(2) “Attest” means providing the following services:

(A) An audit or other engagement to be performed in accordance with the AICPA Statements on Auditing Standards;

(B) A review of a financial statement to be performed in accordance with the AICPA Statements on Standards for Accounting and Review Services;

(C) An examination of prospective financial information to be performed in accordance with the AICPA Statements on Standards for Attestation Engagements;

(D) An engagement to be performed in accordance with PCAOB standards; and

(E) An examination, review, or agreed-upon procedures engagement to be performed in accordance with the AICPA Statements on Auditing Standards for Attestation Engagements other than an examination described in subdivision (a)(2)(C) of this section;

(3) “Beneficial owner” means an individual who is the grantor and sole trustee of a revocable trust in which the individual reserves the unrestricted right to revoke the trust;

(4) “Certificate” means a certificate as “certified public accountant” issued under § 17-12-301 or a corresponding certificate as “certified public accountant” issued after examination under the laws of any other state;

(5) “Compilation” means providing a service of any compilation engagement to be performed in accordance with the AICPA Statements on Standards for Accounting and Review Services;

(6) "Conviction" means all instances in a criminal case in which a defendant has been found guilty or pleads guilty or nolo contendere regardless of whether:

(A) Sentencing or imposition of sentencing has been deferred or suspended; or

(B) The adjudication of guilt or the sentence is withheld by the court;

(7) "Firm" means a partnership, corporation, limited liability company, sole proprietorship, or other entity required to be registered with the Arkansas State Board of Public Accountancy under § 17-12-401 et seq.;

(8) "Home office" means the location specified by the client as the address to which a service under § 17-12-311 is directed;

(9) "License" means a certificate issued under § 17-12-301 or a registration under § 17-12-312 or § 17-12-401 et seq. or, in each case, a certificate or permit issued or a registration under corresponding provisions of prior law;

(10) "Licensee" means the holder of a license as defined in this section;

(11) "Member" means either:

(A) The person in whose name membership interests are registered in the records of a limited liability company; or

(B) The beneficial owner of membership interests of a revocable living trust when the membership interests are registered in the records of the limited liability company in the name of the revocable living trust;

(12) "NASBA" means the National Association of State Boards of Accountancy, or its successor;

(13) "PCAOB" means the Public Company Accounting Oversight Board, or its successor;

(14) "Practice of public accounting" means the performance of or an offer to perform attest services as defined in this section or the performance of or an offer to perform professional services for the general public;

(15) "Preparation of financial statements" means providing a service of any preparation of financial statements engagement to be performed in accordance with the AICPA Statements on Standards for Accounting and Review Services;

(16)(A)(i) "Principal place of business" means the primary location from which professional services are performed.

(ii) A person or firm may have only one (1) principal place of business at any one (1) time.

(B) An individual who performs professional services at multiple locations may designate the location that most often serves as the individual's home base of operations as a principal place of business;

(17) "Professional services" means services arising out of or related to the specialized knowledge or skills performed by certified public accountants or public accountants;

(18) "Shareholder" means either:

(A) The person in whose name shares are registered in the records of a corporation; or

(B) The beneficial owner of shares of a revocable living trust when the shares are registered in the records of the corporation in the name of the revocable living trust; and

(19) "State" means any state, territory, or insular possession of the United States or the District of Columbia.

(b) The statements on standards specified in subdivision (a)(2) of this section shall be:

(1) Adopted by reference by rule of the Arkansas State Board of Public Accountancy; and

(2) Those developed for general application by recognized national accountancy organizations such as the American Institute of Certified Public Accountants.

History. Acts 1975, No. 160, § 22; A.S.A. 1947, § 71-632; Acts 1997, No. 306, § 4; 1999, No. 180, § 1; 2005, No. 54, § 1; 2009, No. 93, § 1; 2013, No. 90, § 1; 2017, No. 277, § 1; 2019, No. 386, § 1.

Amendments. The 2019 amendment deleted former (a)(4).

17-12-106. Unlawful acts — Definition.

(a)(1) No person shall assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that he or she is a certified public accountant, unless he or she holds a current license as a certified public accountant under § 17-12-301 et seq. and all of his or her offices in this state for the practice of public accounting are currently maintained and registered as required under § 17-12-403.

(2) However, a foreign accountant who has received a certificate under the provisions of § 17-12-308(c) may use the title under which he or she is generally known in his or her country, followed by the name of the country from which he or she received his or her certificate, license, or degree.

(b) No firm shall assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of certified public accountants unless the firm is currently registered under § 17-12-401(b)(1) and all offices of the firm in this state for the practice of public accounting are currently maintained and registered as required under § 17-12-403.

(c) No person shall assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that he or she is a public accountant, unless:

(1) He or she is currently licensed as a public accountant and all of the person's offices in this state for the practice of public accounting are currently maintained and registered as required under § 17-12-403; or

(2) He or she is currently licensed as a certified public accountant under § 17-12-301 et seq. and all of the person's offices in this state for the practice of public accounting are currently maintained and registered as required under § 17-12-403.

(d) No firm shall assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of public accountants unless the firm is currently registered under § 17-12-401 or § 17-12-402 and all offices of the firm in this state for the practice of public accounting are currently maintained and registered as required under § 17-12-403.

(e)(1) No person or firm shall assume or use the title or designation "certified accountant", "chartered accountant", "enrolled accountant", "licensed accountant", "registered accountant", "accredited accountant", "accounting practitioner", or any other title or designation likely to be confused with "certified public accountant" or "public accountant", or any of the abbreviations "CA", "LA", "RA", "AA", "AP", or similar abbreviations likely to be confused with "CPA" or "PA".

(2) Anyone currently licensed under this chapter and whose offices in this state for the practice of public accounting are currently maintained and registered as required under § 17-12-403 may hold himself or herself out to the public as an "accountant" or "auditor".

(3) A foreign accountant who receives a certificate under § 17-12-308(c) and all of whose offices in this state for the practice of public accounting are currently maintained and registered as required under § 17-12-403 may use the title under which he or she is generally known in his or her country, followed by the name of the country from which he or she received his or her certificate, license, or degree.

(4)(A) A person or firm shall not use a professional or firm name or designation that is misleading in reference to the legal form of the firm, the ownership of the firm, or the firm's owners, partners, officers, members, managers, or shareholders.

(B) However, a firm may use the name of one (1) or more past partners, officers, members, managers, or shareholders in its firm name.

(5)(A)(i) A common brand name or initials used by a firm in its name is not misleading if the firm is a network firm.

(ii) For purposes of this subsection, "network firm" means an association of entities that includes one (1) or more firms that:

(a) Cooperate to enhance the firms' ability to provide professional services; and

(b) Share one (1) or more of the following:

(1) Common control as defined by generally accepted accounting principles in the United States through ownership, management, or other means;

(2) Profits or costs, excluding costs of operating the association, developing audit methodologies, manuals, and training courses, or other costs that are immaterial to the firm;

(3) A common business strategy, established by the association, that involves ongoing collaboration among the firms and whereby the firms are responsible for implementing the strategy and are held accountable for their performance under it;

(4) Significant part of professional resources; and

(5) Common quality control policies and procedures that the firms are required to implement and are monitored by the association.

(B) A network firm may consist of a subset of entities within an association only if that subset of entities cooperates and shares one (1) or more of the characteristics in subdivision (e)(5)(A)(ii) of this section.

(C) A firm shall comply with the applicable standards on independence if it offers or renders services that require independence.

(f)(1) A person who is not a current licensee may not offer to render or render any attest service as defined in § 17-12-103.

(2) The restriction in subdivision (f)(1) of this section does not prohibit any act of a public official or public employee in the performance of that person's duties as such or prohibit the performance by any person of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports in violation of this chapter.

(g) Unless he or she is a current licensee and all of his or her offices in this state for the practice of public accounting are currently maintained and registered under § 17-12-403, no person shall sign or affix his or her name or any trade or assumed name used by him or her in his or her profession or business with any wording indicating that he or she is an accountant or auditor or with any wording indicating that he or she has expert knowledge in accounting or auditing to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing:

(1) Financial information; or

(2) Facts respecting compliance with conditions established by law or contract, including, but not limited to, statutes, ordinances, rules, regulations, grants, loans, and appropriations.

(h) Unless the firm is currently registered as required by § 17-12-401 et seq. and all of its offices in this state for the practice of public accounting are currently maintained and registered as required under § 17-12-403, no person shall sign or affix a firm name with any wording indicating that it is a partnership, corporation, or limited liability company composed of accountants or auditors or persons having expert knowledge in accounting or auditing to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing:

(1) Financial information; or

(2) Facts respecting compliance with conditions established by law or contract, including, but not limited to, statutes, ordinances, rules, regulations, grants, loans, and appropriations.

(i)(1) No person not currently licensed pursuant to § 17-12-301 et seq., and no firm not currently registered pursuant to § 17-12-401 et seq., shall hold himself or herself or itself out to the public as an "accountant" or "auditor" by use of either or both of such words on any sign, card, electronic transmission, or letterhead or in any advertisement or directory without indicating thereon or therein that the person or firm does not hold such a license.

(2) This subsection shall not prohibit any officer, employee, partner, or principal of any organization from describing himself or herself by the position, title, or office he or she holds in such an organization, nor shall this subsection prohibit any act of a public official or public employee in the performance of his or her duties as such.

(j) No person shall assume or use the title or designation "certified public accountant" or "public accountant" in conjunction with names indicating or implying that there is a partnership, corporation, or limited liability company if there is, in fact, no bona fide partnership, corporation, or limited liability company currently registered under § 17-12-401 or § 17-12-402. A sole proprietor, corporation, or partnership lawfully using the title or designation in conjunction with such names or designations on July 9, 1975, may continue to do so if he or she or it otherwise complies with the provisions of this chapter.

(k)(1)(A) A licensee shall not for a commission recommend or refer to a client a product or service, or for a commission recommend or refer a product or service to be supplied by a client, or receive a commission when the licensee or the licensee's firm also performs for that client:

(i) An audit or review of a financial statement;

(ii) A compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence;

(iii) An examination of prospective financial information; or

(iv) An engagement to be performed in accordance with PCAOB standards.

(B) This prohibition applies during the period in which the licensee is engaged to perform any of the services listed in subdivision (k)(1)(A) of this section and the period covered by any historical financial statements involved in such listed services.

(2) A licensee who is not prohibited by this section from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose that fact to a person or entity to whom the licensee recommends or refers a product for service to which the commission relates.

(3) A licensee who accepts a referral fee for recommending or referring any service of a licensee to a person or entity or who pays a referral fee to obtain a client shall disclose the acceptance or payment to the client.

(l)(1) A licensee shall not:

(A) Perform for a contingent fee any professional services for or receive such a fee from a client for whom the licensee or the licensee's firm performs:

(i) An audit or review of a financial statement;

(ii) A compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence;

(iii) An examination of prospective financial information; or

(iv) An engagement to be performed in accordance with PCAOB standards; or

(B) Prepare an original or amended tax return or claim for a tax refund for a contingent fee for a client.

(2) The prohibition in subdivision (l)(1) of this section applies during the period in which the licensee is engaged to perform any of the services listed in subdivision (l)(1) of this section and the period covered by any historical financial statements involved in any such listed services.

(3)(A) Except as stated in subdivision (l)(3)(B) of this section, a contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained or in which the amount of the fee is otherwise dependent upon the finding or result of the service.

(B) Solely for purposes of this section, fees are not regarded as being contingent if fixed by courts or other public authorities or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies.

(C) A licensee's fees may vary depending, for example, on the complexity of services rendered.

(m) A firm that is not registered under § 17-12-401 and does not have an office in this state to provide professional services in this state does not violate this section if the firm complies with § 17-12-401(b)(2) or (b)(3).

(n) For purposes of this section:

(1) "Licensee" includes an individual using practice privileges under § 17-12-311 on an equal basis; and

(2) A reference to a firm registered under § 17-12-401 et seq. includes a firm exempt from registration and practicing under § 17-12-401(b)(2) and (3).

History. Acts 1975, No. 160, § 16; §§ 2-6; 2013, No. 90, § 3; 2019, No. 315, A.S.A. 1947, § 71-626; Acts 1991, No. 434, §§ 1326, 1327.

§ 1; 1997, No. 242, § 1; 1999, No. 180, **Amendments.** The 2019 amendment inserted "rules" in (g)(2) and (h)(2).
§ 2; 2005, No. 54, § 3; 2009, No. 93,

17-12-108. CPA construed.

Whenever any statute or rule requires that reports, financial statements, and other documents for submission to any department, board, or agency of this state be prepared by CPAs, the requirements shall be construed to mean registered public accountants or certified public accountants.

History. Acts 1975, No. 160, § 5; 1977, No. 183, § 1; 1979, No. 432, § 3; A.S.A. 1947, § 71-615; Acts 2019, No. 315, § 1328.

Amendments. The 2019 amendment substituted “rule” for “regulation”.

SUBCHAPTER 2 — ARKANSAS STATE BOARD OF PUBLIC ACCOUNTANCY**SECTION.**

17-12-203. Duties and powers.

17-12-204. Disposition of funds — Reports.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

17-12-203. Duties and powers.

(a) The Arkansas State Board of Public Accountancy may adopt, and amend from time to time, rules for the orderly conduct of its affairs and for the administration of this chapter.

(b)(1) The Arkansas State Board of Public Accountancy shall prepare periodically and make available in media or a medium deemed appropriate by the Arkansas State Board of Public Accountancy a register which shall contain:

(A) The names of all practitioners currently licensed to practice under this chapter;

(B) The names of the members of the Arkansas State Board of Public Accountancy; and

(C) Any other matters as may be deemed proper by the Arkansas State Board of Public Accountancy.

(2) The Arkansas State Board of Public Accountancy may employ personnel and arrange for assistance as it may require for the performance of its duties.

(c)(1) The Arkansas State Board of Public Accountancy may promulgate and amend rules of professional conduct appropriate to establish and maintain a high standard of integrity and dignity in the profession of public accountancy.

(2) At least three (3) months before the promulgation of a rule or amendment to its rules of professional conduct, the Arkansas State Board of Public Accountancy shall mail copies of the proposed rule or amendment to each licensee with a notice advising him or her of the proposed effective date of the rule or amendment and requesting that he or she submit his or her comments thereon at least fifteen (15) days before its effective date.

(3) Comments shall be advisory only.

(4) Failure to mail the rule, amendment, or notice to all licensees shall not affect the validity of the rule or amendment.

(d) The Arkansas State Board of Public Accountancy may issue any further rules, including, but not limited to, rules of professional conduct pertaining to licensees practicing public accounting which it deems consistent with or required by the public welfare. Among other things, the Arkansas State Board of Public Accountancy may prescribe rules for licensees:

(1) Governing their style, name, and title;

(2) Governing their affiliation with any other organization; and

(3) Establishing reasonable standards with respect to professional liability insurance and capital requirements.

(e) The Arkansas State Board of Public Accountancy may:

(1) Adopt rules, not inconsistent with this subchapter, as necessary and proper to carry out the purposes and intentions of this subchapter;

(2)(A) Issue subpoenas to compel the attendance of witnesses and the production of documents.

(B) In case of refusal to obey a subpoena issued to any person, the Pulaski County Circuit Court, upon application by the Arkansas State Board of Public Accountancy, may issue an order requiring the person to appear before the Arkansas State Board of Public Accountancy to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question.

(C) Failure to obey the order of the court may be punished by the court as a contempt of court;

(3) Administer oaths;

(4) Take testimony and receive evidence; and

(5) Cooperate with the following:

(A) The Public Company Accounting Oversight Board; and

(B) The appropriate state, federal, or foreign regulatory authorities having jurisdiction over the professional conduct in question.

(f)(1) The Arkansas State Board of Public Accountancy and its agents are immune from personal liability for actions taken in good faith in the discharge of its responsibilities.

(2) The state shall hold the Arkansas State Board of Public Accountancy, its members, and its agents harmless from all costs, damages, and attorney's fees arising from claims and suits against them with respect to matters to which the immunity applies.

History. Acts 1975, No. 160, § 2; 1979, No. 432, § 1; A.S.A. 1947, § 71-612; Acts 1997, No. 242, § 3; 1999, No. 180, § 10; 2005, No. 54, § 5; 2013, No. 90, § 4; 2019, No. 315, §§ 1329, 1330.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (a), and twice in the introductory language of (d).

17-12-204. Disposition of funds — Reports.

(a) All fees and other moneys received by the Arkansas State Board of Public Accountancy pursuant to the provisions of this chapter shall be kept in a separate fund and expended solely for the purposes of this chapter. No part of this special fund shall revert to the general funds of this state. The compensation provided by this chapter and all expenses incurred under this chapter shall be paid from this special fund. No compensation or expenses incurred under this chapter shall be a charge against the general funds of this state.

(b) The board shall file an annual report of its activities with the Secretary of the Department of Labor and Licensing, and the report shall include a statement of all receipts and disbursements.

History. Acts 1975, No. 160, § 2; 1979, No. 432, § 1; A.S.A. 1947, § 71-612; Acts 2019, No. 910, § 5406.

substituted "Secretary of the Department of Labor and Licensing" for "Governor" in (b).

Amendments. The 2019 amendment

SUBCHAPTER 3 — INITIAL LICENSURE

SECTION.

- 17-12-301. Requirements generally.
- 17-12-302. Education requirements.
- 17-12-303. Criminal background check.
- 17-12-305. Reexaminations.

SECTION.

- 17-12-307. Credit for examination administered by licensing authority in another jurisdiction.

17-12-301. Requirements generally.

(a) A certificate as a certified public accountant shall be granted by the Arkansas State Board of Public Accountancy to any person:

(1) Who has met the education and experience requirements set forth in this chapter and by the board; and

(2) Who has passed an examination in accounting and auditing and such related subjects as the board shall determine to be appropriate.

(b)(1) Any person who has received from the board a certificate as a certified public accountant which is currently in full force and effect shall be styled and known as a "certified public accountant" and may also use the abbreviation "CPA".

(2) The board shall maintain a list of certified public accountants.

(c) Any certified public accountant may also be known as a “public accountant”.

History. Acts 1975, No. 160, §§ 3, 3A; 1979, No. 432, § 2; A.S.A. 1947, § 71-613; Acts 1989, No. 696, § 1; 1997, No. 242, § 4; 1999, No. 180, § 12; 2005, No. 54, § 6; 2019, No. 990, § 7.

Amendments. The 2019 amendment deleted “of good moral character” following “person” in the introductory language of (a); deleted former (b); and redesignated part of former (c) as (b).

17-12-302. Education requirements.

(a) In general, the applicable education requirements shall be those in effect on the date on which the applicant successfully applies for his or her examination under § 17-12-301(a)(2). However, the Arkansas State Board of Public Accountancy may provide by rule for exceptions to the general rule in order to prevent what it determines to be undue hardship to applicants resulting from changes in the education and experience requirements.

(b) The board may provide by rule for the general scope of the examinations and may obtain any advice and assistance it deems appropriate to assist it in preparing and grading the examinations.

History. Acts 1975, No. 160, § 3; 1979, No. 432, § 2; A.S.A. 1947, § 71-613; Acts 1989, No. 696, § 2; 1999, No. 180, § 13; 2019, No. 315, § 1331.

substituted the first occurrence of “rule” for “regulation” in the second sentence of (a); and substituted “rule” for “regulation” in (b).

Amendments. The 2019 amendment

17-12-303. Criminal background check.

(a) The Arkansas State Board of Public Accountancy may require each applicant for a new or reinstated license as a certified public accountant, including reciprocity applicants, or public accountant to apply for or authorize the board to obtain state and national criminal background checks to be conducted by the Identification Bureau of the Division of Arkansas State Police and the Federal Bureau of Investigation.

(b) The criminal background checks shall conform to the applicable federal standards and shall include the taking of fingerprints.

(c) The applicant shall authorize the release of the criminal background checks to the board and shall be responsible for the payment of any fee associated with the criminal background checks.

(d) Upon completion of the criminal background checks, the Identification Bureau shall forward to the board all releasable information obtained concerning the applicant.

(e) [Repealed.]

(f)(1) The provisions of subsection (e) of this section may be waived by the board upon the request of:

(A) An affected applicant for licensure or registration; or

(B) The person holding a license or registration subject to revocation.

(2) Circumstances for which a waiver may be granted shall include, but not be limited to:

- (A) The age at which the crime was committed;
- (B) The circumstances surrounding the crime;
- (C) The length of time since the crime;
- (D) Subsequent work history;
- (E) Employment references;
- (F) Character references;
- (G) A conviction or record that has been expunged; and
- (H) Other evidence demonstrating that the applicant does not pose a threat to the public health, safety, or welfare.

(g)(1) Any information received by the board from the Identification Bureau under this section is not available for examination except by:

(A) The affected applicant or the applicant's authorized representative; or

(B) The person whose license or registration is subject to revocation or his or her authorized representative.

(2) No record, file, or document shall be removed from the custody of the Division of Arkansas State Police.

(3) Only information pertaining to the person making the request may be made available to the affected applicant or the person whose license or registration is subject to revocation.

(4) Rights of privilege and confidentiality established in this section shall not extend to any document created for purposes other than the criminal background checks.

(h) The board shall adopt rules to implement the provisions of this section.

History. Acts 1975, No. 160, § 3; 1979, No. 432, § 2; A.S.A. 1947, § 71-613; Acts 1993, No. 1219, § 1; 1999, No. 180, § 14; 2005, No. 54, § 7; 2019, No. 315, § 1332; 2019, No. 990, §§ 8, 9.

Amendments. The 2019 amendment by No. 315 deleted "and regulations" following "rules" in (h).

The 2019 amendment by No. 990, in (d), inserted "releasable", and substituted "applicant" for "commission by the applicant of any offense listed in subsection (c) of this section"; and repealed (e).

17-12-305. Reexaminations.

(a) The Arkansas State Board of Public Accountancy may by rule prescribe the terms and conditions under which an applicant who passes the examination in one (1) or more of the subjects indicated in § 17-12-301(a)(2) may be reexamined in only the remaining subjects, with credit for the subjects previously passed.

(b) It may also provide by rule for a reasonable waiting period for an applicant's reexamination in a subject he or she has failed.

(c) Subject to subsections (a) and (b) of this section and such rules as the board may adopt governing reexaminations, an applicant shall be entitled to any number of reexaminations under § 17-12-301(a)(2).

History. Acts 1975, No. 160, § 3; 1979, No. 432, § 2; A.S.A. 1947, § 71-613; Acts 1999, No. 180, § 15; 2019, No. 315, § 1333.

Amendments. The 2019 amendment substituted “rule” for “regulation” in (a) and (b); and substituted “rules” for “regulations” in (c).

17-12-307. Credit for examination administered by licensing authority in another jurisdiction.

The Arkansas State Board of Public Accountancy may by rule provide for granting a credit to an applicant for his or her satisfactory completion of an examination in any one (1) or more of the subjects specified in § 17-12-301(a)(2) given by the licensing authority in any other state. The rules shall include such requirements as the board shall determine to be appropriate in order that any examination approved as a basis for any credit shall be, in the judgment of the board, at least as thorough as the most recent examination given by the board at the time of the granting of the credit.

History. Acts 1975, No. 160, § 3; 1979, No. 432, § 2; A.S.A. 1947, § 71-613; Acts 1997, No. 242, § 6; 1999, No. 180, § 17; 2005, No. 54, § 9; 2019, No. 315, § 1334.

Amendments. The 2019 amendment substituted “rule” for “regulation” in the first sentence and substituted “rules” for “regulations” in the second sentence.

SUBCHAPTER 4 — REGISTRATION OF FIRMS

SECTION.

17-12-401. Professional partnerships, corporations, limited liability companies, and sole proprietorships of certified public accountants.

17-12-402. Professional partnerships, corporations, limited li-

SECTION.

ability companies, and sole proprietorships of public accountants.

17-12-403. Offices.

17-12-401. Professional partnerships, corporations, limited liability companies, and sole proprietorships of certified public accountants.

(a) The Arkansas State Board of Public Accountancy shall grant or renew a registration as a CPA firm to an applicant that meets the qualifications of this section.

(b)(1) A firm shall hold a registration under this section if the firm:

(A) Has an office in this state:

(i) Engaged in the practice of public accounting; or

(ii) That uses the title “CPA” or “CPA firm”; or

(B) Does not have an office in this state but performs attest services described in § 17-12-103(a)(2)(A), § 17-12-103(a)(2)(C), or § 17-12-103(a)(2)(D) for a client having its home office in this state.

(2) A firm that does not have an office in this state may perform services under § 17-12-103(a)(2)(B), § 17-12-103(a)(2)(E), or § 17-12-103(a)(5) for a client having its home office in this state and may use the

title "CPA" or "CPA firm" without registering under this section only if the firm:

(A) Meets the applicable qualifications of this section and § 17-12-507;

(B) Performs the services through an individual with practice privileges under § 17-12-311; and

(C) Meets the peer review requirements under § 17-12-508.

(3) A firm that is not subject to the requirements of subdivision (b)(1)(B) or subdivision (b)(2) of this section may perform other professional services while using the title "CPA" or "CPA firm" in this state without registering under this section only if the firm:

(A) Performs the services through an individual with practice privileges under § 17-12-311; and

(B) Can lawfully perform the services in the state where the individuals with practice privileges have their principal place of business.

(c) If required to register under subdivision (b)(1)(A) of this section:

(1) A partnership engaged in this state in the practice of public accounting shall register with the board as a partnership of certified public accountants and meet the following requirements:

(A) At least one (1) general partner shall be a certified public accountant of this state in good standing; and

(B) Each resident manager in charge of an office of the partnership in this state shall be a certified public accountant of this state in good standing;

(2) A corporation engaged in this state in the practice of public accounting shall register with the board as a corporation of certified public accountants and meet the following requirements:

(A) Any officer or director of the corporation having authority over the practice of public accounting by the corporation in this state shall be a certified public accountant of some state in good standing;

(B) At least one (1) shareholder of the corporation shall be a certified public accountant of this state in good standing;

(C) Each resident manager in charge of an office of the corporation in this state shall be a certified public accountant of this state in good standing; and

(D) The corporation shall be in compliance with other rules pertaining to corporations practicing public accounting in this state that the board may prescribe;

(3) A limited liability company engaged in this state in the practice of public accounting shall register with the board as a limited liability company of certified public accountants and meet the following requirements:

(A) Any manager, member, officer, or director of the limited liability company having authority over the practice of public accounting by the limited liability company in this state shall be a certified public accountant of some state in good standing;

(B) At least one (1) member of the limited liability company shall be a certified public accountant of this state in good standing;

(C) Each resident manager in charge of an office of the limited liability company in this state shall be a certified public accountant of this state in good standing; and

(D) The limited liability company shall be in compliance with other rules pertaining to limited liability companies practicing public accounting in this state that the board may prescribe; and

(4) A certified public accountant operating as a sole proprietorship and engaged in this state in the practice of public accounting shall register with the board as a sole proprietor if registration is required under subdivision (b)(1) of this section and shall comply with the requirements of § 17-12-403.

(d)(1) Application for registration shall be made upon the affidavit of a general partner, shareholder, or member who is a certified public accountant of this state in good standing or, if registration is required under subdivision (b)(1)(B) of this section, a licensee of another state who meets the requirements set forth in § 17-12-311.

(2) An individual who has practice privileges under § 17-12-311 and performs services for which registration is required under § 17-12-311(a)(4) shall not be required to obtain a license from this state under § 17-12-301.

(e) The board shall in each case determine whether the applicant is eligible for registration.

(f) Notification shall be given to the board within one (1) month after the admission or withdrawal of a partner, shareholder, or member from any firm so registered.

(g) Any firm registered under this section may include nonlicensee owners or public accountants who hold a valid license under § 17-12-312, provided that:

(1) A majority of the ownership of the firm in terms of financial interests and voting rights of all partners, officers, directors, shareholders, members, or managers belongs to holders of certificates who are licensed in some state, and such partners, officers, directors, shareholders, members, or managers whose principal place of business is in this state and who perform professional services in this state hold a valid certificate issued under § 17-12-301 et seq. or the corresponding provisions of prior law;

(2) The firm designates a licensee of this state or, in the case of a firm that must be registered under subdivision (b)(1)(B) of this section, a licensee of another state who meets the requirements of § 17-12-311 who is responsible for the proper registration of the firm and identifies that individual to the board;

(3) All nonlicensee owners are active individual participants in the firm or other entities affiliated with the firm; and

(4) The firm complies with such other requirements as the board may impose by rule.

History. Acts 1975, No. 160, § 8; A.S.A. 1947, § 71-618; Acts 1997, No. 242, § 9; 1999, No. 180, § 23; 2005, No. 54, § 12; 2009, No. 93, § 8; 2017, No. 278, § 1; 2019, No. 315, §§ 1335, 1336.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (c)(2)(D) and (c)(3)(D).

17-12-402. Professional partnerships, corporations, limited liability companies, and sole proprietorships of public accountants.

(a) A partnership engaged in this state in the practice of public accounting shall register with the Arkansas State Board of Public Accountancy as a partnership of public accountants, provided it meets the following requirements:

(1) At least one (1) general partner shall be a certified public accountant or a public accountant of this state in good standing; and

(2) Each resident manager in charge of an office of the partnership in this state shall be a certified public accountant or a public accountant of this state in good standing.

(b) A corporation engaged in this state in the practice of public accounting shall register with the board as a corporation of public accountants, provided it meets the following requirements:

(1) An officer or director of the corporation having authority over the practice of public accounting by the corporation shall be a certified public accountant or a public accountant of this state in good standing;

(2) Each resident manager in charge of an office of the corporation in this state shall be a certified public accountant or a public accountant of this state in good standing; and

(3) The corporation shall be in compliance with other rules pertaining to corporations practicing public accounting in this state that the board may prescribe.

(c) A limited liability company engaged in this state in the practice of public accounting shall register with the board as a limited liability company of public accountants, provided it meets the following requirements:

(1) Any manager, member, officer, or director of the limited liability company having authority over the practice of public accounting by the limited liability company shall be a public accountant or certified public accountant of this state in good standing;

(2) Each resident manager in charge of an office of the limited liability company shall be a certified public accountant or a public accountant of this state in good standing; and

(3) The limited liability company shall be in compliance with other rules pertaining to the limited liability companies practicing public accounting in this state that the board may prescribe.

(d) A public accountant operating as a sole proprietorship and engaged in this state in the practice of public accounting shall:

(1) Register with the board as a sole proprietor; and

(2) Comply with the requirements of § 17-12-403.

(e) Applications for registration shall be made upon the affidavit of a general partner, shareholder, or member who is licensed in this state as a certified public accountant or as a public accountant.

(f) The board shall in each case determine whether the applicant is eligible for registration.

(g) A firm that is so registered may use the words "public accountants" in connection with its firm.

(h) Notification shall be given to the board within one (1) month after the admission to or withdrawal of a partner, shareholder, or member from any partnership, corporation, or limited liability company so registered.

(i) A firm registered pursuant to this section may include nonlicensee owners, provided that:

(1) A majority of the ownership of the firm in terms of financial interests and voting rights of all partners, officers, directors, shareholders, members, or managers belongs to licensees of this state;

(2) The firm designates a licensee of this state who is responsible for the proper registration of the firm and identifies that individual to the board;

(3) All nonlicensee owners are active individual participants in the firm; and

(4) The firm complies with such other requirements as the board may impose by rule.

History. Acts 1975, No. 160, § 9; A.S.A. 1947, § 71-619; Acts 1997, No. 242, § 10; 1999, No. 180, § 24; 2009, No. 93, § 9; 2019, No. 315, §§ 1337, 1338.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (b)(3) and (c)(3).

17-12-403. Offices.

(a) Each office established or maintained in this state for the practice of public accounting in this state by a certified public accountant, public accountant, or firm shall be registered annually with the Arkansas State Board of Public Accountancy under this chapter.

(b) No fee shall be charged for the registration of one (1) office. The board at its discretion may require an annual fee to be paid for each additional office registered. The amount of the fee shall be established by board rule.

(c) Each office shall be under the direct supervision of a resident manager who may be either the sole proprietor or an owner of the firm or a staff employee licensed under this chapter. The title or designation "certified public accountant" or the abbreviation "CPA" shall not be used in connection with an office unless the resident manager is the holder of a certificate as a certified public accountant which is in full force and effect. The resident manager may serve in such a capacity at one (1) office only.

(d) The board shall prescribe by rule the procedure to be followed in effecting such registrations.

History. Acts 1975, No. 160, § 10; A.S.A. 1947, § 71-620; Acts 1997, No. 242, § 11; 1999, No. 180, §§ 25, 26; 2019, No. 315, § 1339.

Amendments. The 2019 amendment substituted "rule" for "regulation" in (d).

SUBCHAPTER 5 — LICENSE RENEWAL

SECTION.

17-12-502. Continuing education requirement.

SECTION.

17-12-505. Inactive status.

17-12-502. Continuing education requirement.

(a) Every application for renewal of a license by any person who holds a certificate as a certified public accountant or registration as a public accountant shall be accompanied or supported by such evidence as the Arkansas State Board of Public Accountancy shall prescribe, documenting completion of forty (40) hours of acceptable continuing education, approved by the board, during the twelve-month period immediately preceding the expiration date of the license, or one hundred twenty (120) hours of acceptable continuing education approved by the board, during the thirty-six-month period immediately preceding the expiration date of the license.

(b) Failure by an applicant for renewal of a license to furnish such evidence shall constitute grounds for revocation, suspension, or refusal to issue or renew such a license in a proceeding under § 17-12-601 unless the board in its discretion shall determine the failure to have been due to reasonable cause.

(c) The board in its discretion may renew a license despite failure to furnish evidence of satisfaction of requirements of continuing education and may renew a license to an applicant who has previously maintained inactive status under § 17-12-505 upon the condition that the applicant follow a particular program or schedule of continuing education.

(d) In issuing rules and individual orders in respect to requirements of continuing education, the board in its discretion:

(1) May, among other things, use and rely upon guidelines and pronouncements of recognized educational and professional associations;

(2) May prescribe content, duration, and organization of courses;

(3) Shall take into account the accessibility to applicants of such continuing education as it may require;

(4) Shall consider any impediments to interstate practice of public accountancy which may result from differences in the requirements in other states; and

(5) May provide for relaxation or suspension of the requirements in regard to applicants who certify that they do not intend to engage in the practice of public accountancy and for instances of individual hardship.

(e) The board is authorized to prescribe rules, procedures, and policies in the manner and condition under which credit shall be given for participation in a program of continuing education that the board

may deem necessary and appropriate to maintain the highest standard of proficiency in the profession of public accounting.

(f) Examples of programs of continuing education which will be acceptable include, but are not limited to, programs or seminars sponsored by higher education institutions, government agencies, professional organizations of certified public accountants and public accountants, and firms of certified public accountants and public accountants.

(g) The board is authorized to prescribe conditions under which sponsors of continuing education programs must register with the board or a third party approved by the board in order for the programs to be acceptable to the board. A fee for the registration may be charged in an amount established by board rule. In the event the board provides for registration with a third party, the fee charged by the third party may be charged to and paid by the sponsor.

(h) The board in its discretion may require licensees to provide evidence of compliance with the requirements of this section and may investigate licensees to verify compliance with this section. All persons acting on behalf of the board in connection with such investigations shall be considered officers or employees of the State of Arkansas for purposes of:

- (1) Immunity from civil liability pursuant to § 19-10-301 et seq.; and
- (2) Payment of actual damages on behalf of state officers or employees pursuant to § 21-9-201 et seq.

History. Acts 1975, No. 160, § 11; 1979, No. 432, § 5; A.S.A. 1947, § 71-621; Acts 1997, No. 242, §§ 14, 15; 1999, No. 180, § 32; 2005, No. 54, § 13; 2019, No. 315, § 1340.

Amendments. The 2019 amendment deleted "regulations" following "rules" in the introductory language of (d); and substituted "rules" for "regulations" in (e).

17-12-505. Inactive status.

(a) The Arkansas State Board of Public Accountancy may by rule create an exception to the continuing education requirement of § 17-12-502 for licensees who do not perform or offer to perform for the public:

- (1) One (1) or more kinds of services involving the use of accounting or auditing skills, including issuance of reports on financial statements;
- (2) One (1) or more kinds of management advisory, financial advisory, or consulting services;
- (3) The preparation of tax returns; or
- (4) The furnishing of advice on tax matters.

(b) A licensee granted an exception under subsection (a) of this section by the board shall place the word "inactive" adjacent to his or her CPA title or PA title on any business card, letterhead, electronic transmission, or any other document or device, with the exception of his or her CPA certificate or PA registration, on which his or her CPA or PA title appears.

(c) The following activities are exempted from the restrictions provided in subsection (a) of this section:

(1) Attorneys with a current law license may provide tax services as allowed by his or her law license while his or her CPA or PA license is on inactive status;

(2) A nonresident licensee who holds an active CPA or PA license to practice in his or her state of residence may engage in the activities permitted by the license issued by the state of residence while his or her Arkansas CPA or PA license remains inactive, but he or she may not engage in the activities listed in subsection (a) of this section within this state, for clients who are residents of this state, or for clients whose home office is located in this state without an active Arkansas CPA or PA license;

(3) An inactive licensee may provide services listed in subsection (a) of this section on a volunteer basis if no compensation is received, the services are not attest services, and no documents are signed as a CPA or PA by the inactive licensee; and

(4) An inactive licensee who has returned to work involving the practice of public accounting and has applied with the board to upgrade his or her license to active status may engage in the activities listed in subsection (a) of this section if he or she is supervised by another active licensee and no documents are signed as a CPA or PA by the inactive licensee until his or her application is approved by the board.

History. Acts 1975, No. 160, § 11; 1979, No. 432, § 5; A.S.A. 1947, § 71-621; Acts 1999, No. 180, § 35; 2019, No. 452, § 1.

designated the existing provisions as (a) and (b); in (b), inserted “under subsection (a) of this section” and substituted “shall” for “must”; added (c); and made stylistic changes.

Amendments. The 2019 amendment

SUBCHAPTER 6 — REVOCATION AND SUSPENSION

SECTION.

17-12-601. Grounds generally.

17-12-601. Grounds generally.

(a) The following acts, conduct, or practices are prohibited, and any licensee or holder of a practice privilege found guilty by the Arkansas State Board of Public Accountancy of the acts, conducts, or practices shall be subject to disciplinary action as provided in § 17-12-602 after notice and hearing as provided in § 17-12-603:

(1) Fraud, dishonesty, or deceit in obtaining or attempting to obtain a certificate or registration as a certified public accountant or public accountant, registration of a firm, or a practice privilege under this chapter;

(2) Dishonesty, fraud, or gross negligence in the practice of public accountancy;

(3) Violation of any of the provisions of this chapter;

(4) Violation of a rule of professional conduct or other rule promulgated by the board under the authority granted by this chapter;

(5) Conviction of a felony under § 17-3-102;

(6) Conviction of any crime an element of which is dishonesty or fraud under the law of any state or of the United States;

(7) Imposition of any sanction or disciplinary action, other than for failure to pay annual fees, by the United States Securities and Exchange Commission, Public Company Accounting Oversight Board, Internal Revenue Service, or other federal or state agency or foreign authority or credentialing body that regulates public accounting regarding the licensee's conduct while rendering public accounting or other professional services;

(8) Conduct discreditable to the public accounting profession; and

(9) Violation of any board order or agreement for the resolution of asserted violations of this chapter, a board rule of professional conduct, or other board rule.

(b) The board may deny an application for a license, registration, certificate, or practice privilege if it finds the applicant committed any of the acts, conduct, or practices prohibited by subsection (a) of this section.

(c) In addition to the offenses listed in § 17-3-102, the Arkansas State Board of Public Accountancy may refuse to issue a license to or reinstate a license of a person who has been convicted of a felony involving theft or fraud, regardless of the amount of time that has elapsed since the conviction.

History. Acts 1975, No. 160, § 12; 1979, No. 432, § 6; A.S.A. 1947, § 71-622; Acts 1997, No. 242, § 18; 1999, No. 180, § 38; 2005, No. 54, § 17; 2019, No. 990, §§ 10, 11.

Amendments. The 2019 amendment

substituted "§ 17-3-102" for "the law of any state or of the United States" in (a)(5); substituted "dishonesty or fraud under the law" for "dishonesty, fraud, or moral turpitude under the law" in (a)(6); and added (c).

CHAPTER 13

AGRICULTURAL CONSULTANTS

SECTION.

17-13-106. Administration.

17-13-106. Administration.

The State Plant Board shall:

(1) Administer and enforce this chapter;

(2) Promulgate, pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., rules necessary for the implementation of this chapter;

(3) Establish annual license fees not to exceed one hundred dollars (\$100);

(4) Formulate criteria for continuing educational training of licensed agricultural consultants in cooperation with the cooperative extension service; and

(5) Revoke or suspend any agricultural consultant's license for cause.

History. Acts 1987, No. 609, § 4; 2005, No. 857, § 4; 2019, No. 315, § 1341.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (2).

CHAPTER 14

APPRAISERS

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ARKANSAS APPRAISER LICENSING AND CERTIFICATION BOARD.
3. LICENSING RESTRICTIONS.
4. APPRAISAL MANAGEMENT COMPANY REGISTRATION ACT.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

17-14-102. Necessity for registration, license, or certificate.

17-14-103. Definitions.

SECTION.

17-14-105. Rights and privileges of appraisers.

17-14-102. Necessity for registration, license, or certificate.

(a)(1) The Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., is created in response to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and specifies three (3) classes of appraisers: state-licensed, state-certified residential, and state-certified general appraisers for federally related transactions.

(2) A fourth class is created for nonfederally related transactions, which shall be known as "state-registered appraisers".

(3) A fifth class is created for an appraiser who is subject to direct control and supervision by a qualified state-certified appraiser supervisor as part of upgrading his or her classification to state-licensed or state-certified, which shall be known as "registered apprentice appraiser".

(b) It is the intent of the General Assembly that this law be no more restrictive than required under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

History. Acts 1991, No. 416, §§ 7, 13; 1991, No. 541, §§ 7, 13; 1993, No. 413, § 1; 2001, No. 1256, § 1; 2009, No. 628, § 3; 2019, No. 514, § 1.

Amendments. The 2019 amendment redesignated former (a) as (a)(1) and (a)(2); and added (a)(3).

17-14-103. Definitions.

As used in the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.:

(1) "Appraisal":

(A) As a noun, means the act or process of estimating value or an estimate of value; and

(B) As an adjective, means of or pertaining to appraising and related functions, i.e., appraisal practice and appraisal services;

(2) "Appraisal Foundation" and "foundation" mean the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois;

(3) "Appraisal practice" and "appraisal services" mean the work or services performed by appraisers for clients;

(4) "Appraisal Standards Board" means the board created under Article XI, sections 11.01 — 11.13 inclusive, of the bylaws of the Appraisal Foundation, as amended April 22, 1990;

(5) "Appraisal Subcommittee" means the subcommittee of the Federal Financial Institutions Examination Council established under Title XI, the Real Estate Appraisal Reform Amendments of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, section 1102, by amendment to the Federal Financial Institutions Examination Council Act of 1978, 12 U.S.C. § 3301 et seq., through the addition of new section 1011, "Establishment of Appraisal Subcommittee";

(6) "Appraiser" or "real estate fee appraiser" means any person who, for a fee or other consideration, develops and communicates a real estate appraisal or otherwise gives an opinion of the value of real estate or any interest in real estate;

(7) "Appraiser Qualifications Board" means the board created under Article XII, sections 12.01 — 12.08 inclusive, of the bylaws of the Appraisal Foundation, as amended April 22, 1990;

(8) "Board" means the Arkansas Appraiser Licensing and Certification Board established under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.;

(9) "Client" means any person for whom an appraiser performs a service;

(10) "Federal financial institutions regulatory agencies" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the United States Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration;

(11) "Federally related transaction" means any real estate-related financial transaction which:

(A) A financial institution, a federal financial institution's regulatory agency, or the Federal Deposit Insurance Corporation engages in, contracts for, or regulates; and

(B) In accordance with any federal law, rule, or regulation, as the same may be amended, requires the services of an appraiser;

(12) "Financial institution" means an insured depository institution as defined in the Federal Deposit Insurance Act, 12 U.S.C. § 1813(c)(2), or an insured credit union as defined in section 101 of the Federal Credit Union Act, 12 U.S.C. § 1751 et seq.;

(13) "Independent appraisal assignment" means any engagement for which an appraiser is employed or retained to act or to be perceived by third parties or the public as acting as a disinterested third party in rendering an unbiased analysis, opinion, evaluation, or conclusions relating to the nature, quality, value, or utility identified as real estate or real property;

(14) "Market analysis" or "broker's price opinion" means a proposed sale price opinion or recommended listing price given by a licensed real estate broker, salesperson, or other to a potential seller, purchaser, or third party;

(15) "Personal property" means identifiable portable and tangible objects which are considered by the general public as being "personal", e.g., furnishings, artwork, antiques, gems and jewelry, collectibles, machinery and equipment; all property that is not classified as real estate;

(16) "Real estate" means an identified parcel or tract of land, including improvements, if any;

(17)(A) "Real estate appraisal" means an unbiased estimate of the nature, quality, value, or utility of an interest in, or aspect of, identified real estate and related personalty.

(B)(i) A real estate appraisal may be classified by subject matter into either a valuation or an evaluation.

(ii) Valuation is the process of estimating the market value, investment value, insurable value, or other properly defined value of an identified interest or interests in a specific parcel or parcels of real estate as of a given date.

(iii) Evaluation or analysis is the study of the nature, quality, or utility of a parcel of real estate, or interests in or aspects of real property, in which a value estimate is not necessarily required, i.e., a study of real estate or real property other than estimating value;

(18) "Real estate-related financial transaction" means any transaction involving:

(A) The sale, lease, purchase, investment in, or exchange of real property, including interests in property, or the financing thereof;

(B) The refinancing of real property or interests in real property; and

(C) The use of real property or interests in property as security for a loan or investment, including mortgage-backed securities;

(19) "Real property" means interest, benefits, and rights inherent in the ownership of real estate;

(20)(A) "Registered apprentice appraiser" means an individual who has satisfied the requirements for apprentice appraiser by the

Appraiser Qualifications Board and who is subject to direct control and supervision by a qualified state-certified appraiser supervisor as a part of upgrading his or her classification to state-licensed or state-certified.

(B) The scope of practice for a registered apprentice appraiser is the appraisal of properties that the state-certified appraiser supervisor is permitted by his or her current credential and competent to appraise;

(21) "Report" means:

(A) Any communication, written or oral, of an appraisal, review, or analysis;

(B) The document that is transmitted to the client upon completion of an assignment; or

(C) The tangible expression of an appraiser's service;

(22) "Review" means the act or process of critically studying a report prepared by another;

(23) "State-certified general appraiser" means any individual who has satisfied the requirements for state certification in the State of Arkansas and who is qualified to perform appraisals of all real property types of any monetary size and complexity;

(24) "State-certified residential appraiser" means any individual who has satisfied the requirements for state certification in the State of Arkansas and who is qualified to perform appraisals of all property types up to a monetary size and complexity as prescribed by the Appraiser Qualifications Board and the federal financial institutions regulatory agencies;

(25) "State-licensed appraiser" means any individual who has satisfied the requirements for state licensing in the State of Arkansas and who is qualified to perform appraisals of all property types up to a monetary size and complexity as prescribed by the Appraiser Qualifications Board and the federal financial institutions regulatory agencies;

(26) "State-registered appraiser" means any person who has satisfied the requirements for a state-registered appraiser credential as set forth in § 17-14-307 or requirements as may have been determined by the Arkansas Appraiser Licensing and Certification Board and who may perform appraisals on any type of property except when the purpose of the appraisal is for use in federally related transactions;

(27) "Uniform Standards of Professional Appraisal Practice" means the entire body of rules, definitions, binding requirements, guidelines, explanatory comments, and ethical conduct provisions, as promulgated by the Appraisal Standards Board of the Appraisal Foundation, which provide the basis for an individual to conduct the practice of professional appraisal with integrity, objectivity, and independent judgment and in an ethical manner; and

(28) "Written appraisal" means the conclusions of an appraiser's valuation analysis communicated to the client in writing.

History. Acts 1991, No. 416, § 2; 1991, No. 541, § 2; 1993, No. 413, § 2; 1993, No. 1270, § 1; 2001, No. 1256, § 2; 2009, No. 628, §§ 4, 5; 2017, No. 535, § 1; 2019, No. 514, § 2.

Amendments. The 2019 amendment

inserted (20) and redesignated the remaining subdivisions accordingly; substituted “for a state-registered appraiser credential as set forth” for “for registering as set forth” in (26); and rewrote (28).

17-14-105. Rights and privileges of appraisers.

(a) A state-registered appraiser or state-licensed appraiser as defined in § 17-14-103 may appraise real property for compensation if the use of a state-certified appraiser is not required under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., or by federal or state law, rule, or policy.

(b) An appraiser shall not sign an appraisal report or be cited within the report as having provided “significant real property appraisal assistance” in the development of the appraisal without having been state-registered, state-licensed, registered apprentice, or state-certified.

(c) An appraiser shall not perform or be employed to perform an appraisal where the property that is subject to the assignment lies within the borders of the State of Arkansas without first being state-registered, state-licensed, registered apprentice, or state-certified by the Arkansas Appraiser Licensing and Certification Board.

History. Acts 1991, No. 416, § 7; 1991, No. 541, § 7; 2001, No. 1256, § 4; 2009, No. 628, § 7; 2019, No. 514, § 3.

Amendments. The 2019 amendment substituted “privileges of appraisers” for

“privileges of licensed or registered appraiser” in the section heading; inserted “appraiser” following “state-registered” in (a); inserted “registered apprentice” in (b); and added (c).

SUBCHAPTER 2 — ARKANSAS APPRAISER LICENSING AND CERTIFICATION BOARD

SECTION.

17-14-201. Composition — Membership — Chair.

17-14-202. Powers and duties — Reporting standards — Qualification standards.

17-14-203. Powers and duties — In general.

SECTION.

17-14-205. Hearings — Review — Access to records.

17-14-206. Complaints and disciplinary procedures.

17-14-201. Composition — Membership — Chair.

(a) There is created the Arkansas Appraiser Licensing and Certification Board, to be composed of ten (10) members as follows:

(1) Seven (7) practicing certified or licensed appraisers as follows:

(A) At least five (5) of the appraiser members of the board shall be state-certified appraisers;

(B) No more than two (2) appraiser members shall reside in the same congressional district of the four (4) Arkansas congressional districts; and

(C) The seven (7) practicing appraiser members shall be representative of the various disciplines found in the appraisal profession, including without limitation residential appraisal, commercial and industrial appraisal, forestry and timberland appraisal, rural appraisal, and any other appraisal discipline that may be affected by the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.;

(2) One (1) board member shall be a representative of financial institutions familiar with the appraisal process;

(3) One (1) senior citizen representative; and

(4) One (1) consumer representative.

(b)(1) The Governor shall appoint the members of the board subject to confirmation by the Senate and may remove a member for cause.

(2) At least five (5) real estate appraiser members appointed to the board shall be members in good standing of:

(A) A state or regional chapter of a nationally recognized real estate appraisal organization that requires an individual to have qualified appraisal experience, education, and testing in order to become a designated member and to adhere to standards of professional practice in order to retain such a designation; or

(B) The Association of Consulting Foresters of America, Inc., Arkansas Chapter.

(c)(1)(A) The term of each appraiser board member shall be three (3) years.

(B) The financial member representative, the senior citizen representative, and the consumer representative shall have three-year terms.

(2) Upon expiration of their terms, members of the board shall continue to hold office until the appointment and qualification of their successors.

(3) No person shall serve as a member of the board for more than two (2) consecutive terms.

(d) The members of the board will select a state-certified appraiser chair.

(e) Each member of the board may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

History. Acts 1991, No. 416, §§ 3, 5; 252, § 1; 2017, No. 535, § 2; 2017, No. 1991, No. 541, §§ 3, 5; 1997, No. 250, 817, § 1; 2019, No. 514, § 4.
§ 123; 2001, No. 159, §§ 1, 2; 2009, No. **Amendments.** The 2019 amendment
628, § 9; 2015, No. 695, §§ 1-4; 2015, No. inserted "or regional" in (b)(2)(A).
1100, § 20; 2015, No. 1156, § 1; 2017, No.

17-14-202. Powers and duties — Reporting standards — Qualification standards.

(a) The Arkansas Appraiser Licensing and Certification Board may establish, maintain, report, and periodically update meaningful qualification standards for state-licensed, registered apprentice, and state-certified appraisers practicing in the State of Arkansas, including testing, experience, and educational requirements that:

- (1) Are adequate to demonstrate knowledge and competency; and
- (2) Will further demonstrate the continued compliance with:

(A) All applicable federal law and regulations, including Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and related requirements of the federal financial institutions regulatory agencies; and

(B) The minimum standards and qualifications as promulgated by the Appraisal Standards Board and the Appraiser Qualifications Board of the Appraisal Foundation.

(b) The Arkansas Appraiser Licensing and Certification Board may adopt, maintain, report, and periodically update minimum reporting standards for state-registered, state-licensed, registered apprentice, and state-certified appraisers practicing in the State of Arkansas. The reporting standards shall:

(1) Be equivalent to the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Standards Board of the Appraisal Foundation; and

- (2) At all times seek compliance with:

(A) All applicable federal law and regulations, including Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and related requirements of the federal financial institutions regulatory agencies; and

(B) The minimum standards as promulgated by the Appraisal Standards Board of the Appraisal Foundation.

History. Acts 1991, No. 416, § 4; 1991, No. 541, § 4; 2001, No. 1256, § 6; Acts 2019, No. 514, § 5.

Amendments. The 2019 amendment inserted “registered apprentice” in the in-

troductory language of (a) and (b); and deleted “and as approved by the Appraisal Subcommittee” following “Foundation” in (a)(2)(B) and (b)(2)(B).

17-14-203. Powers and duties — In general.

In accordance with these general powers and duties, the Arkansas Appraiser Licensing and Certification Board shall:

(1) Perform all duties and functions necessary to carry out this chapter;

(2)(A) Receive applications for registering, licensing, and certification.

(B) The application shall include the applicant’s consent to a state criminal background check and a national fingerprint-based criminal

background check performed by the Federal Bureau of Investigation in compliance with federal law and regulations;

(3) Establish administrative procedures for processing applications;

(4)(A)(i) Approve and issue registration, licenses, and certificates to qualified applicants or disapprove applications for registering, licensing, and certification for applicants who do not meet the minimum requirements as prescribed in this chapter.

(ii) The minimum requirements shall include a determination that the applicant possesses a background that does not call into question public trust or the applicant's fitness for registration, licensure, or certification.

(B) All application materials and records submitted to the Arkansas Appraiser Licensing and Certification Board shall be retained by the Arkansas Appraiser Licensing and Certification Board;

(5)(A) Maintain a roster of the names, addresses, email addresses, and telephone numbers of all persons licensed and certified under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., and, in accordance with sections 1103(a)(3) and 1109(a)(1) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, shall submit this roster monthly to the Appraisal Subcommittee.

(B) This roster may be published and periodically updated and provided to all interested parties at cost;

(6)(A) Establish by rule the minimum examination, education, experience, and continuing education requirements for state-registered, state-licensed, registered apprentice, and state-certified appraisers.

(B)(i) The criteria for a state-registered appraiser shall be less rigorous than the criteria for a state-licensed appraiser.

(ii) The criteria for a state-licensed appraiser shall be less rigorous than the criteria for a state-certified appraiser. However, the criteria will ensure that licensed appraisers have sufficient experience and training to perform appraisals for transactions within and in compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(C) These rules shall at all times be equivalent to the minimum appraiser-qualification criteria as promulgated by the Appraiser Qualifications Board of the Appraisal Foundation for state-licensed, registered apprentice, and state-certified appraisers performing federally related transactions.

(D) With respect to examinations, these rules shall at all times require minimum examination contents that are equivalent to the national uniform examination content as promulgated by the Appraiser Qualifications Board of the Appraisal Foundation and shall provide for the selection and utilization of a testing service acceptable to the Appraiser Qualifications Board of the Appraisal Foundation.

(E)(i) Every application for registering, licensing, and certifying shall be accompanied by an application fee and a criminal background check fee that the Arkansas Appraiser Licensing and Certification Board may establish by rule.

(ii) However, the Arkansas Appraiser Licensing and Certification Board, at its discretion, may direct each applicant to pay the actual cost of the examination fee directly to a testing service engaged by the Arkansas Appraiser Licensing and Certification Board to administer the examination.

(F)(i) The application fee to upgrade a credential from registered apprentice to state-licensed or to state-certified shall not exceed one hundred dollars (\$100).

(ii) The application fee to upgrade a credential from state-licensed to state-certified shall not exceed fifty dollars (\$50.00).

(G) The total annual resident registering, licensing, certification, and application fees established by the Arkansas Appraiser Licensing and Certification Board shall not exceed three hundred dollars (\$300), excluding fees for:

(i) Applicable examination and federal pass-through fees; and

(ii) Criminal background check fees.

(H) Courses, schools, seminars, and any other educational programs must be recognized by the Arkansas Appraiser Licensing and Certification Board as acceptable to satisfy registration, licensing, and certification standards and continuing education requirements under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.;

(7)(A) Establish administrative procedures for disciplinary proceedings conducted under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.

(B) The administrative procedures shall include provisions for the suspension and revocation of registration, licenses, and certificates and the enforcement of civil penalties concurrent with existing statutes regarding civil procedures;

(8) Subpoena and issue subpoena duces tecum and to bring before it any person in this state, and to take testimony by deposition, in the same manner as prescribed by law in judicial proceedings in the courts of this state or to require production of any records relevant to any inquiry or hearing by the Arkansas Appraiser Licensing and Certification Board;

(9) Recommend procedures necessary to assure the ready availability to appraisers in the state of adequate and reliable information regarding property prices and the terms and conditions of real estate and real property transactions and related financing;

(10) Establish administrative procedures for the setting, charging, and collecting of fees necessary for the operation of the Arkansas Appraiser Licensing and Certification Board and to concurrently collect and submit to the proper agency as prescribed under Section 1109(a)(4) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and any other related federal law, any additional fees that may from time to time be required to be paid by appraisers whose practices include the appraisal of properties included in federally related transactions;

(11) Be authorized to adopt and enforce such administrative rules as may be necessary to comply with state law and federal law with specific reference to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as it exists today and as it may be amended and adopted by the Appraisal Subcommittee; and

(12)(A)(i) Obtain a state criminal background check performed by the Identification Bureau of the Division of Arkansas State Police and a national fingerprint-based criminal background check performed by the Federal Bureau of Investigation in compliance with federal law and regulations for all applicants for a real property appraiser registration, license, or certification to determine if the applicant possesses a background that does not call into question public trust or the applicant's fitness for registration, licensure, or certification.

(ii) Subdivision (12)(A)(i) of this section applies to an application for a state-registered appraiser credential, an application for a registered apprentice appraiser credential, an application to upgrade an existing appraiser credential, an application to reinstate an appraiser credential that has been inactive for more than twelve (12) months, and an application for a new reciprocal appraiser credential.

(iii) Subdivision (12)(A)(i) of this section does not apply to an application for a temporary practice permit.

(B) An applicant shall provide all information requested by the Arkansas Appraiser Licensing and Certification Board to assist making the determination.

(C) Factors to consider in making the determination include without limitation whether the applicant:

(i) During the five (5) years immediately preceding the date of the application was convicted of, or pled guilty or nolo contendere to, a crime that would call into question the applicant's fitness for registration, licensure, or certification, including without limitation a crime involving:

(a)(1) An act substantially related to the qualifications, functions, or duties of an appraiser.

(2) A crime or act may be deemed substantially related to the qualifications, functions, or duties of an appraiser if, to a substantial degree, the crime or act evidences present or potential unfitness of a person applying for or holding a real property appraiser credential to perform the functions authorized by the credential;

(b) Taking, appropriating, or retaining the funds or property of another;

(c) Forging, counterfeiting, or altering an instrument affecting the rights or obligations of another;

(d) Evasion of a lawful debt or obligation, including without limitation a tax obligation;

(e) Trafficking in narcotics or controlled substances;

(f) Violation of a relation of trust or confidence;

(g) Theft of personal property or funds;

(h) An act of violence or threatened violence against persons or property; or

- (i) A sexually related crime or act under § 5-14-101 et seq.;
- (ii) Has had an appraiser registration, license, certification, or credential of any type revoked in any governmental jurisdiction;
- (iii) Performed any act which if done by an appraiser would be grounds to revoke or suspend the appraiser's license or certification;
- (iv) Knowingly made a false statement of material fact required to be disclosed in an application for any professional license or certification;
- (v) Has been prohibited from participating in the affairs of an insured depository institution under Section 19(a) of the Federal Deposit Insurance Act, 12 U.S.C. § 1829;
- (vi) Misrepresented facts or information on the appraiser registration, license, or certification application; or
- (vii) Cheated on an examination for a real property appraiser registration, license, or certification.

History. Acts 1991, No. 416, § 4; 1991, No. 541, § 4; 2001, No. 1256, § 7; 2009, No. 628, § 10; 2015, No. 1124, §§ 1-5; 2017, No. 535, § 3; 2019, No. 514, §§ 6, 7; 2019, No. 990, § 12.

Amendments. The 2019 amendment by No. 514 redesignated former (5) as (5)(A) and (5)(B); in (5)(A), inserted "email addresses" and substituted "roster monthly" for "roster annually"; inserted "registered apprentice" in (6)(A) and (6)(C); in (6)(E)(i), substituted "certifying"

for "certification" and substituted "application fee and a criminal background check fee" for "application and examination fee, as applicable, and a criminal background check fee"; rewrote (6)(F); and inserted "an application for a registered apprentice appraiser credential" in (12)(A)(ii).

The 2019 amendment by No. 990 deleted former (12)(C)(i)(a) and redesignated the remaining subdivisions accordingly.

17-14-205. Hearings — Review — Access to records.

(a) In fulfilling its duties under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., the Arkansas Appraiser Licensing and Certification Board shall comply with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., and any person aggrieved by any rule or other actions of the board for which an appeal is not provided for in the Arkansas Administrative Procedure Act, § 25-15-201 et seq., may appeal to the Pulaski County Circuit Court.

(b) Disciplinary hearings conducted by the board for the purpose of determining whether to levy civil penalties under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., and for the purpose of determining whether to revoke or suspend any registration, license, or certificate issued under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., shall not be deemed open public meetings but shall be executive sessions conducted as provided for in the Freedom of Information Act of 1967, § 25-19-101 et seq.

(c) Sample appraisals and other work papers submitted to the board as partial fulfillment of the requirements for licensure or certification

under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., shall not be deemed public records under the Freedom of Information Act of 1967, § 25-19-101 et seq.

History. Acts 1991, No. 416, §§ 11, 12; 1991, No. 541, §§ 11, 12; 2009, No. 628, § 11; 2019, No. 514, § 8. **Amendments.** The 2019 amendment inserted "registration" in (b).

17-14-206. Complaints and disciplinary procedures.

(a) Upon its own motion or upon written complaint of any person and after notice and hearing as prescribed by the Arkansas Administrative Procedure Act, § 25-15-201 et seq., the Arkansas Appraiser Licensing and Certification Board may suspend or revoke the registration, license, or certification of any registrant, licensee, or certificate holder and issue a fine up to the amount of one thousand dollars (\$1,000) per violation occurrence or take any other appropriate disciplinary action for:

(1) Violation of any provision of the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.;

(2) Falsifying any application for licensure or certification or otherwise providing any false information to the board;

(3) [Repealed.]

(4) Any actions demonstrating untrustworthiness, incompetence, dishonesty, gross negligence, material misrepresentation, fraud, or unethical conduct in any dealings subject to the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.;

(5) Adjudication of insanity;

(6) Use of advertising or solicitation that is false, misleading, or is otherwise deemed unprofessional by the board;

(7) Employing directly or indirectly any unlicensed person to perform any actions subject to the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.;

(8) Habitual or excessive use of intoxicants or illegal drugs; or

(9) Failure to meet continuing education requirements within the proper time period.

(b) Except in cases in which a licensee, registrant, or certificate holder has obtained a license by false or fraudulent representation, the board shall not investigate the actions of or conduct any disciplinary hearing regarding any licensee, registrant, or certificate holder unless the complaint is filed or the investigation is initiated within three (3) years from the date of the actions complained of or concerning which an investigation is initiated.

(c)(1) An action in tort or contract, whether oral or written, to recover damages for malpractice, negligence, error, mistake, omission, or

breach shall not be brought against a registered apprentice appraiser, a state-registered appraiser, a state-licensed appraiser, or a state-certified appraiser, including any agent, firm, employee, or employer thereof, after three (3) years from the date on which the appraisal or appraisal-related service giving rise to the action was completed or should have been completed.

(2) The time for commencement of an action contained in subdivision (c)(1) of this section does not apply to any claim alleging that a state-registered appraiser, state-licensed appraiser, registered apprentice appraiser, or state-certified appraiser knowingly and intentionally:

(A) Committed fraud; or

(B) Made misrepresentations when performing a real estate appraisal or when providing an appraisal-related service.

History. Acts 1993, No. 413, § 4; 2001, No. 1256, § 8; 2005, No. 278, § 1; 2009, No. 628, § 12; 2019, No. 514, § 9; 2019, No. 990, § 13.

Amendments. The 2019 amendment by No. 514 added (c).

The 2019 amendment by No. 990 repealed (a)(3).

SUBCHAPTER 3 — LICENSING RESTRICTIONS

SECTION.

17-14-303. Unlicensed persons — Federally and nonfederally related transactions.

17-14-304. Use of terms.

17-14-305. Compliance with uniform standards and code of ethics — Seals — Licensing and certification documents.

SECTION.

17-14-306. Additional licenses — Non-residents.

17-14-307. Minimum qualifying requirements for registered appraiser.

17-14-308. Violation of law — Civil penalties, injunctions, and venue.

17-14-303. Unlicensed persons — Federally and nonfederally related transactions.

(a) It is a Class B misdemeanor for any person who is not licensed, registered, or certified under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., to perform appraisal services as defined in the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., in connection with a federally related transaction.

(b) An appraiser who does not hold an appraiser's classification that permits the performance of a particular appraisal assignment for use in federally related transactions must include in such an appraisal report a statement that the appraisal may not be eligible for use in a federally related transaction.

History. Acts 1991, No. 416, § 10; 2005, No. 1994, § 472; 2009, No. 628, 1991, No. 541, § 10; 2001, No. 1256, § 11; § 15; 2019, No. 514, § 10.

Amendments. The 2019 amendment inserted “registered” in (a).

17-14-304. Use of terms.

(a) The terms “certified real property appraiser”, “certified real estate appraiser”, and “certified appraiser” shall only be used to refer to individuals who hold a current certificate and shall not be used in connection with or as part of the name or signature of an individual, firm, partnership, corporation, group, or other business entity, or anyone other than an individual holder of the certificate.

(b) An appraiser practicing or providing appraisal services in this state as defined in § 17-14-103 may not use the term “registered”, “certified”, or “licensed” in conjunction with his or her appraisal practice, unless he or she holds a valid registration, license, or certification issued under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.

(c) The terms “licensed real estate appraiser”, “licensed real property appraiser”, and “licensed appraiser” shall only be used to refer to an individual who holds a current license and shall not be used in connection with or as part of the name or signature of an individual, firm, corporation, or group or in a manner that may be interpreted as referring to a firm, partnership, corporation, group, or other business entity, or anyone other than an individual holder of the license.

(d) A person other than a state-registered appraiser, state-licensed appraiser, registered apprentice appraiser, or state-certified appraiser shall not assume or use that title or any title, designation, or abbreviation likely to create the impression of registration, licensing, or certification as an appraiser by this state.

(e) A person who is not registered, licensed, or certified under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., shall not describe or refer to any appraisal report, written or oral, or other evaluation of real estate covered under the activities of appraisers by the term “registered”, “licensed”, “certified”, or any other similar term that may be construed to imply qualification or competency recognized by the state.

History. Acts 1991, No. 416, § 9; 1991, No. 541, § 9; 2001, No. 1256, § 12; 2009, No. 628, § 16; 2019, No. 514, § 11.

Amendments. The 2019 amendment inserted “registered apprentice appraiser” in (d); and inserted “registered” in (e).

17-14-305. Compliance with uniform standards and code of ethics — Seals — Licensing and certification documents.

(a)(1) Each state-registered appraiser, each state-licensed appraiser, each registered apprentice appraiser, and each state-certified appraiser shall comply with the Uniform Standards of Professional Appraisal Practice and Code of Ethics adopted by the Arkansas Appraiser Licensing and Certification Board and shall authenticate all written appraisal

reports with a seal that shall indicate the registration, license, or certification number.

(2) The seal and number shall also be used in all statements of qualifications, contracts, or other instruments used by the registration, license, or certificate holder when reference is made to his or her status as a state-registered appraiser, state-licensed appraiser, registered apprentice appraiser, or state-certified appraiser.

(b) Registration, license, and certificate documents, licenses, certificates, seals, and pocket cards shall remain the property of the state, and, upon any suspension, revocation, or other termination of a registration, license, or certification under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., the individual holding the related documents shall immediately return the documents to the board.

History. Acts 1991, No. 416, § 9; 1991, No. 541, § 9; 1993, No. 413, § 5; 2001, No. 1256, § 13; 2009, No. 628, § 17; 2019, No. 514, § 12.

Amendments. The 2019 amendment inserted "each registered apprentice appraiser" in (a)(1); and inserted "registered apprentice appraiser" in (a)(2).

17-14-306. Additional licenses — Nonresidents.

(a)(1) Every applicant for registration, licensure, or certification under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., who is not a resident of this state shall submit with the application for registration, licensure, or certification an irrevocable consent that service of process upon him or her may be made by delivery of the process to the Secretary of State if, in an action against the applicant in a court of this state arising out of the applicant's activities as a state-registered appraiser, state-licensed appraiser, registered apprentice appraiser, or state-certified appraiser, the plaintiff cannot effect personal service upon the applicant.

(2) A nonresident of this state who has complied with this provision may obtain a license or certification as a state-licensed appraiser or a state-certified appraiser by complying with the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., relating to state-registered appraisers, state-licensed appraisers, or state-certified appraisers, including the payment of a fee.

(b)(1) If, in the determination by the Arkansas Appraiser Licensing and Certification Board, another state is deemed to have substantially equivalent licensing and certification requirements, an applicant who is licensed or certified under the laws of the other state may obtain a nonresident license or certificate as a state-licensed appraiser or a state-certified appraiser in this state upon such terms and conditions as may be determined by the board.

(2) An appropriate fee is to be charged.

History. Acts 1991, No. 416, § 8; 1991, No. 541, § 8; 1993, No. 413, § 6; 2001, No. 1256, § 14; 2009, No. 628, § 18; 2019, No. 514, § 12.

Amendments. The 2019 amendment inserted “registered apprentice appraiser” in (a)(1); and deleted “temporary or” preceding “nonresident” in (b)(1).

17-14-307. Minimum qualifying requirements for registered appraiser.

In order to qualify as a state-registered appraiser, an applicant must:

(1) Make application to the Arkansas Appraiser Licensing and Certification Board on approved forms which shall include an affidavit that states that the appraiser has read and understands:

(A) The current edition of the Uniform Standards of Professional Appraisal Practice;

(B) The board’s statutes; and

(C) The board’s rules;

(2) Attest in a statement to the verification of tenure and scope of practice as a fee appraiser making independent appraisal assignments; and

(3) Meet any additional requirements which may from time to time be adopted by the board under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 2001, No. 1256, § 15; 2019, No. 315, § 1342. deleted “and regulations” following “rules” in (1)(C).

Amendments. The 2019 amendment

17-14-308. Violation of law — Civil penalties, injunctions, and venue.

(a)(1) It is unlawful for a person not registered, licensed, or certified under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., to perform an act or advertise to perform an act for which registration, licensure, or certification is required.

(2) A person is guilty of a Class A misdemeanor if the person:

(A) Acts as an appraiser within the meaning of this chapter without an appraiser classification;

(B)(i) With an interest in a real estate transaction involving an appraisal, improperly influences or attempts to improperly influence the development, reporting, result, or review of a real estate appraisal through intimidation, coercion, extortion, bribery, blackmail, threat of nonpayment or withholding payment for services, or threat of exclusion from future appraisal work.

(ii) Subdivision (a)(2)(B)(i) of this section does not prohibit a person from:

(a) Requesting an appraiser to:

(1) Consider additional information concerning the real estate appraisal;

(2) Provide further detail, substantiation, or explanation for the appraiser’s value conclusion; or

(3) Correct errors in the appraisal report; or

(b) Withholding payment for an appraisal based upon a bona fide dispute concerning the appraiser's compliance with the appraisal standards adopted by the Arkansas Appraiser Licensing and Certification Board under this chapter.

(iii) A violation of this subdivision (a)(2)(B) is a ground for discipline against a person holding a license, certificate, or registration under this chapter; or

(C) Violates any other provision of this chapter.

(b)(1) Upon application by the board, a court may grant an injunction, restraining order, or other order as may be appropriate to enjoin a person from:

(A) Offering to engage or engaging in the performance of any acts or practices for which a registration, certificate, or license is required by the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., upon a showing that the acts or practices were performed or offered to be performed without a registration, license, or certificate;

(B) Engaging in any practice or business authorized by a certificate, license, or registration issued under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., upon a showing that the holder of the certificate, license, or registration presents a substantial probability of serious danger to the health, safety, or welfare of any resident of this state or client of the certificate holder or licensee; or

(C) Violating subdivision (a)(2) of this section.

(2) Any person cosigning an appraisal with a state-registered, state-licensed, registered apprentice, or state-certified appraiser becomes subject to the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.

(c) An action brought under this section shall be commenced in the county in which the conduct occurred, in the county in which the defendant resides, or in Pulaski County.

(d) An action brought under this section shall be in addition to and not in lieu of any penalty provided by § 17-14-206 and may be brought concurrently with any other action to enforce the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.

History. Acts 2001, No. 1256, § 16; 2009, No. 413, § 1; 2009, No. 628, § 19; 2019, No. 514, § 13. **Amendments.** The 2019 amendment inserted "registered apprentice" in (b)(2).

SUBCHAPTER 4 — APPRAISAL MANAGEMENT COMPANY REGISTRATION ACT

SECTION.

17-14-405. Requirements for registration.

SECTION.

17-14-409. Registry of applicants and roster.

SECTION.

17-14-410. Disciplinary authority, enforcement, and hearings.

17-14-405. Requirements for registration.

(a)(1) Before acting or offering to act as an appraisal management company in this state, a person shall make written application on the forms provided on the official website of the Arkansas Appraiser Licensing and Certification Board to the board for registration accompanied by the fee and bond established by the board.

(2) The same requirements for registration shall apply to the initial application and each subsequent application for renewal.

(b) The initial application or application for renewal shall include without limitation the following information:

(1) The name, business address, and telephone contact information of the person seeking registration;

(2)(A) If the applicant is a domestic organization, the information required by § 4-20-105(a) to designate an agent for service of process; or

(B)(i) If the applicant is a foreign organization, documentation that the foreign organization is authorized to transact business in this state and has appointed an agent for service of process by submitting a copy of:

(a) The company's filing with the Secretary of State appointing an agent for service of process under § 4-20-112; and

(b) A certificate of authority issued by the Secretary of State.

(ii) A foreign organization's failure to comply with subdivision (b)(2)(B)(i) of this section may result in the rejection of the application;

(3)(A) The name, address, and contact information of any person that owns ten percent (10%) or more of the appraisal management company.

(B) Any person owning more than ten percent (10%) of an appraisal management company in this state shall submit to a state criminal background check and a national fingerprint-based criminal background check performed by the Federal Bureau of Investigation in compliance with federal law and regulations;

(4) The name, mailing address, and contact information of a controlling person or a managing principal;

(5)(A) An appraisal management company is not eligible to be registered in this state if the appraisal management company, in whole or in part, directly or indirectly, is owned by a person who has had an appraiser license or certification refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any state for a substantive cause as determined by the board.

(B) An appraisal management company is not barred by subdivision (b)(5)(A) of this section if the license or certification of the appraiser with an ownership interest was not revoked for a substan-

tive cause and has been reinstated by the state or states in which the appraiser was licensed or certified;

(6) A certification that the person:

(A) Has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a license in good standing in this state under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.;

(B) Has a system in place to review the work of all independent appraisers that are performing appraisal services for the appraisal management company on a periodic basis to ensure that the appraisal services are being conducted in accordance with the minimum reporting standards under § 17-14-202(b);

(C) Maintains a detailed record of each request for appraisal services that it receives and the independent appraiser that performs the appraisal services for the appraisal management company; and

(D) Has a system in place to verify that:

(i) Appraisals are conducted independently and free from inappropriate influence and coercion under the appraisal independence standards established under 15 U.S.C. § 1639e, as existing on January 1, 2019; and

(ii) The appraisal management company establishes and complies with processes and controls reasonably designed to ensure that the appraisal management company:

(a) When engaging an appraiser, selects an appraiser who is independent of the transaction and has the requisite education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property; and

(b) Conducts its appraisal management services in accordance with the requirements of 15 U.S.C. § 1639e, as existing on January 1, 2019, and federal regulations, as existing on January 1, 2019;

(7) Requires appraisers completing appraisals at its request to comply with the Uniform Standards of Professional Appraisal Practice;

(8) Has a system in place to verify that only licensed or certified appraisers are used for federally related transactions; and

(9) Any other information required by the board.

(c) The board shall issue an initial or a renewal certificate of registration to an applicant authorizing the applicant to act or offer to act as an appraisal management company in this state upon:

(1) Receipt of a properly completed application;

(2) Payment of the required fee;

(3) Posting of a bond; and

(4)(A) Determination by the board that the activities of the applicant will be directed and conducted by persons of good moral character.

(B) The determination of the board under subdivision (c)(4)(A) of this section shall consider the results of all fingerprint-based criminal history reports.

(d)(1) If the board finds that there is substantial reason to deny the application for registration, the board shall notify the applicant that the

application has been denied and shall afford the applicant an opportunity for a hearing before the board to show cause why the application should not be denied.

(2) All proceedings concerning the denial of a certificate of registration shall be governed by the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(e) The acceptance by the board of an application for registration does not constitute the approval of its contents or waive the authority of the board to take disciplinary action under this subchapter.

History. Acts 2009, No. 628, § 1; 2017, No. 535, § 5; 2019, No. 513, § 1; 2019, No. 990, § 14. The 2019 amendment by No. 990 deleted (b)(3)(B)(i); and deleted the (b)(3)(B)(ii) designation.

Amendments. The 2019 amendment by No. 513 added (b)(6)(D).

17-14-409. Registry of applicants and roster.

(a)(1) The Executive Director of the Arkansas Appraiser Licensing and Certification Board shall keep a register of all applicants for registration.

(2) The register shall indicate:

- (A) The date of application;
- (B) The applicant's name;
- (C) The applicant's business address; and
- (D) Whether the registration was granted or denied.

(3) The register shall be prima facie evidence of all matters contained in the register.

(b)(1) The executive director shall keep a current roster showing the names and addresses of all appraisal management companies registered with the Arkansas Appraiser Licensing and Certification Board.

(2) The roster shall be kept on file in the office of the board and shall be open for public inspection.

(c)(1) The board shall submit to the Appraisal Subcommittee all information required to be submitted by Appraisal Subcommittee rules or guidance concerning appraisal management companies that operate in this state.

(2) Information under subdivision (c)(1) of this section shall include without limitation a roster of registered appraisal management companies, reports of investigations, and disciplinary actions involving appraisal management companies.

History. Acts 2009, No. 628, § 1; 2017, No. 535, § 8; 2019, No. 315, § 1343. substituted "rules" for "regulations" in (c)(1).

Amendments. The 2019 amendment

17-14-410. Disciplinary authority, enforcement, and hearings.

(a) The Arkansas Appraiser Licensing and Certification Board may deny, suspend, revoke, or refuse to issue or renew the registration of an appraisal management company under this subchapter or may restrict

or limit the activities of an appraisal management company or a person who owns an interest in or participates in the business of an appraisal management company if the board finds that any of the following circumstances apply to the applicant, a registrant, or a partner, member, manager, officer, director, managing principal, controlling person, or a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the applicant or registrant:

(1) The person's application for registration when filed or after filing contained a statement that in light of the circumstances under which it was made is false or misleading with respect to a material fact;

(2) The person has violated or failed to comply with this subchapter;

(3) The person has pleaded guilty or nolo contendere to or been found guilty of:

(A) A felony listed under § 17-3-102; or

(B) Within the past ten (10) years:

(i) A misdemeanor involving mortgage lending or real estate appraising; or

(ii) An offense involving breach of trust or fraudulent or dishonest dealing;

(4) The person is permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving appraisal management services or operating an appraisal management company;

(5) The person is the subject of an order of the board or any other state appraisal management company regulatory agency denying, suspending, or revoking the person's privilege to operate as an appraisal management company;

(6) The person acted as an appraisal management company while not properly registered by the board; or

(7) The person failed to pay the proper filing or renewal fee under this subchapter.

(b) Upon its own motion or the written complaint of a person and after notice and hearing as prescribed by the Arkansas Administrative Procedure Act, § 25-15-201 et seq., the board may:

(1) Suspend or revoke the registration of a registrant;

(2) Impose a fine not to exceed one thousand dollars (\$1,000) per violation; or

(3) Take other appropriate disciplinary actions as established by rule of the board.

(c)(1) Before imposing a penalty on a registrant, the board shall:

(A) Notify the registrant in writing of any charges made at least twenty (20) days before the date set for the hearing; and

(B) Afford the registrant an opportunity to be heard in person or by counsel.

(2) The board may make findings of fact and shall deliver or mail the findings to the registrant charged with an offense under this subchapter.

History. Acts 2009, No. 628, § 1; 2017, No. 535, § 9; 2019, No. 990, § 15. inserted “listed under § 17-3-102” in (a)(3)(A); and deleted “moral turpitude” following “trust” in (a)(3)(B)(ii).

CHAPTER 15

ARCHITECTS

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ARKANSAS STATE BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS, AND INTERIOR DESIGNERS.
3. REGISTRATION AND LICENSING.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

17-15-102. Definitions.

17-15-102. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) “Architect” means a person who is technically and legally qualified to practice architecture;

(2) “Direct supervision” means that degree of supervision by a person overseeing the work of another whereby the supervisor has both control over and detailed professional knowledge of the work prepared under his or her supervision;

(3) [Repealed.]

(4)(A)(i) “Practice of architecture” means the provision of, or offering to provide, services in connection with the design and construction, enlargement, or alteration of a building or group of buildings, and the space within and surrounding such buildings, which is designed for human occupancy or habitation.

(ii) The services include:

(a) Planning;

(b) Providing preliminary studies, designs, drawings, specifications, and other technical submissions; and

(c) Administration of construction contracts.

(B) “Practice of architecture” does not include the practice of engineering as defined in § 17-30-101 et seq., or the practice of contracting as defined in § 17-25-101 et seq., but a registered architect may perform such engineering work as is incidental to the practice of architecture, and an engineer may practice such architectural work as is incidental to the practice of engineering.

(C) The provisions of this chapter affirm the legal authority of an engineer licensed under § 17-30-101 et seq., to provide consultation, investigation, evaluation, planning, and design of buildings intended for the accommodation of equipment, vehicles, goods, or processes or other utilitarian function, with human occupancy including office space as required for the support of these functions, provided the

engineer is practicing within his or her area of competency as defined in § 17-30-101 et seq.;

(5) “Registered architect” means an architect holding a current registration in the State of Arkansas;

(6) “Registration” means the certificate of registration issued by the Arkansas State Board of Architects, Landscape Architects, and Interior Designers; and

(7) “Technical submissions” means drawings, specifications, studies, and other technical reports prepared in the course of practicing architecture.

History. Acts 1941, No. 270, §§ 1, 14; A.S.A. 1947, §§ 71-301, 71-312; Acts 1993, No. 578, § 1; 1995, No. 860, § 1; 2009, No. 1367, § 4; 2019, No. 990, § 16.

Amendments. The 2019 amendment repealed (3).

SUBCHAPTER 2 — ARKANSAS STATE BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS, AND INTERIOR DESIGNERS

SECTION.

17-15-205. Continuing education.

17-15-205. Continuing education.

(a) The Arkansas State Board of Architects, Landscape Architects, and Interior Designers may adopt rules setting minimum standards of continuing education to ensure that all registered architects, registered landscape architects, and registered interior designers remain informed of those technical and professional subjects that the board deems appropriate.

(b) The board may by rules describe the methods by which such standards may be satisfied, and may provide that failure to satisfy the minimum standards shall be grounds for nonrenewal of the certificate of registration.

History. Acts 1995, No. 784, § 1; 2009, No. 1367, § 7; 2019, No. 315, § 1344.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (a).

SUBCHAPTER 3 — REGISTRATION AND LICENSING

SECTION.

17-15-302. Exemptions. [Effective until December 31, 2023.]

17-15-303. Partnerships and corporations.

SECTION.

17-15-304. Examinations.

17-15-307. Official seal.

17-15-308. Grounds for revocation.

17-15-302. Exemptions. [Effective until December 31, 2023.]

(a) The following shall be exempt from the provisions of this chapter:

(1) A professional engineer, as defined in § 17-30-101, but only for work incidental to engineering practice if the professional engineer does not use the designation “architect” or any related term;

(2) Employees of those lawfully practicing architecture who are acting under the instruction, control, or supervision of their employer;

(3) Officers and employees of the United States Government while engaged within this state in the practice of architecture for the government;

(4) Residents of this state who do not use the title "architect" or any term derived therefrom who act as designers for:

(A) Buildings that are to be constructed for personal use, such as residences, if the buildings are not intended or adaptable for public employment, assembly, or any other use under which they will be open to the public;

(B) Single family detached, duplex, triplex, and quadruplex dwellings; or

(C) Buildings whose total cumulative and fair market value to complete, not including site, does not exceed two hundred fifty thousand dollars (\$250,000); and

(5) Owners and employees of planing mills, woodworking establishments, sash and door manufacturers, and jobbers in the designing, planning, detailing, and preparation of data on millwork, woodwork, and cabinetwork, provided they do not use the designation "architect" or any term derived therefrom.

(b)(1) The terms of this chapter shall not apply to:

(A) Any public school district exempted from the provisions of this chapter; or

(B) Every public school district embracing a city with a population in excess of thirty thousand (30,000) which maintains a full-time superintendent of buildings with engineering and architectural experience.

(2) This exception shall only apply:

(A) If the total cumulative and fair market value to complete the repair and maintenance of buildings already constructed and alterations thereof does not exceed the sum of two hundred fifty thousand dollars (\$250,000); and

(B) If the total cumulative and fair market value to complete the new structures will not exceed the sum of two hundred fifty thousand dollars (\$250,000).

(c) The provisions of this chapter shall not apply to any public school district, place of assembly, daycare, church, or building not more than one (1) story high where:

(1) The total cumulative and fair market value to complete the building, alteration, or structure does not exceed the sum of two hundred fifty thousand dollars (\$250,000); and

(2) The plans are approved by the State Fire Marshal.

History. Acts 1941, No. 270, § 2; 1959, No. 157, § 1; 1971, No. 582, § 1; 1973, No. 417, § 1; 1975 (Extended Sess., 1976), No. 1204, § 1; 1981, No. 18, § 1; A.S.A. 1947, § 71-302; reen. Acts 1987, No. 1002, § 1; 1995, No. 860, § 2; 1995, No. 1108, §§ 1, 2; 1999, No. 1338, § 3; 2011, No. 897, § 12; 2021, No. 568, §§ 2, 3.

A.C.R.C. Notes. Acts 2021, No. 568, § 1, provided: "Title. This act shall be

known and may be cited as the 'Small Town Economic Development Act'."

Acts 2021, No. 568, § 5, provided: "Review and expiration.

"(a) The effect of this act shall be reviewed by the House Committee on City, County, and Local Affairs and the Senate Committee on City, County, and Local Affairs on or before October 10, 2022, to determine if the licensing requirements for architects and the exemptions for buildings where the total cumulative and fair market value exceeds a certain dollar amount should either:

"(1) Remain at two hundred fifty thousand dollars (\$250,000); or

"(2) Revert to one hundred thousand dollars (\$100,000).

"(b) This act is cumulative of existing laws and shall not repeal but merely suspend any law in conflict with this act.

"(c) On and after December 31, 2023, the provisions of law suspended by this act shall be effective.

"(d) The expiration of this act shall not affect rights acquired under it or affect lawsuits then pending."

Publisher's Notes. For text of section effective December 31, 2023, see the bound volume.

Amendments. The 2021 amendment substituted "two hundred fifty thousand dollars (\$250,000)" for "one hundred thousand dollars (\$100,000)" in (a)(4)(C), (b)(2)(A), (b)(2)(B), and (c)(1).

17-15-303. Partnerships and corporations.

(a) A partnership or a corporation may be admitted to practice architecture in this state if:

(1) Two-thirds ($\frac{2}{3}$) of the partners, if a partnership, or two-thirds ($\frac{2}{3}$) of the directors, if a corporation, are registered under the laws of any state to practice architecture or engineering; and

(2) The person having the practice of architecture in his or her charge is himself or herself a partner, if a partnership, or a director, if a corporation, and registered to practice architecture in this state.

(b) The Arkansas State Board of Architects, Landscape Architects, and Interior Designers is authorized to require by rule any partnership or corporation practicing architecture in this state to file information concerning its officers, directors, beneficial owners, and other aspects of its business organization upon such forms as the board prescribes.

History. Acts 1941, No. 270, § 2; 1959, No. 157, § 1; 1971, No. 582, § 1; 1981, No. 646, §§ 1, 2; A.S.A. 1947, § 71-302; Acts 2019, No. 315, § 1345.

Amendments. The 2019 amendment substituted "rule" for "regulation" in (b).

17-15-304. Examinations.

(a) To be registered and licensed, an applicant must pass an examination for licensure.

(b)(1) To be qualified for admission to an examination to practice architecture in the State of Arkansas, an applicant shall be at least twenty-one (21) years of age.

(2) In addition, the applicant shall have all the qualifications required for admission to either the written examination or the senior examination of the National Council of Architectural Registration Boards.

(c) The Arkansas State Board of Architects, Landscape Architects, and Interior Designers is empowered to make all necessary rules

governing the content, grading, time, place, and method of conducting the examinations and may adopt the examinations and recommended grading procedures of the National Council of Architectural Registration Boards.

History. Acts 1941, No. 270, § 4; 1971, No. 582, § 2; A.S.A. 1947, § 71-304; Acts 1993, No. 1219, § 2; 2019, No. 315, § 1346; 2019, No. 990, § 17.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (c).

The 2019 amendment by No. 990, in (b)(1), substituted “shall be” for “must be” and deleted “and of good moral character” following “age”.

17-15-307. Official seal.

(a) Upon registration, each registrant hereunder shall obtain a seal of such design as the Arkansas State Board of Architects, Landscape Architects, and Interior Designers shall authorize and direct. Plans and specifications prepared by, or under the direct supervision of, a registered architect shall be stamped with this seal during the life of the registrant’s certificate. It shall be unlawful for anyone to stamp or seal any documents with the seal after the certificate of the registrant named thereon has expired or has been revoked unless the certificate shall have been renewed or reissued.

(b) No official of this state, or of any county, city, town, or village, now or hereafter charged with the enforcement of laws, ordinances, rules, or regulations relating to the construction or alteration of buildings, shall accept or approve any plans or specifications which have not been prepared and submitted in full accord with all the provisions of this chapter. Nor shall any payment be approved by any public body for any work, the plans and specifications for which have not been so prepared and signed and sealed by the author.

History. Acts 1941, No. 270, § 6[6A]; A.S.A. 1947, § 71-307; Acts 2019, No. 315, § 1347.

Amendments. The 2019 amendment inserted “rules” in the first sentence of (b).

17-15-308. Grounds for revocation.

The Arkansas State Board of Architects, Landscape Architects, and Interior Designers may revoke the certificate of registration and license of an architect upon proof that:

(1) The holder of the certificate of registration or license is practicing in violation of this chapter or of the proper rules of the board governing this chapter;

(2) The license or certificate of registration has been obtained by fraud or misrepresentation or the person named therein has obtained it by fraud or misrepresentation;

(3) Money other than the regular fees provided for has been paid for the license or certificate of registration;

(4) The holder of the license or certificate of registration is falsely impersonating a practitioner or former practitioner of a like or different name or is practicing under an assumed or fictitious name;

(5) The holder of the license or certificate of registration has been guilty of a felony listed under § 17-3-102;

(6) The holder of the license or certificate of registration has aided or abetted in the practice of architecture a person not duly authorized to practice architecture under this chapter;

(7) The holder of the license or certificate of registration has been guilty of fraud or deceit or of gross negligence or misconduct in the practice of architecture;

(8) The holder of the certificate of registration or license has been guilty of gross incompetency or recklessness in the construction or designing of buildings;

(9) The holder of the license or certificate of registration affixed or permitted to be affixed his or her seal or name to any plans, specifications, drawings, or related documents that were not prepared by him or her or under his or her responsible supervisory control; or

(10) The holder of the license or certificate of registration has been adjudged mentally incapable by a court of competent jurisdiction.

History. Acts 1941, No. 270, § 10; 1971, No. 582, § 7; A.S.A. 1947, § 71-310; Acts 2009, No. 1367, § 10; 2019, No. 990, § 18.

Amendments. The 2019 amendment added "listed under § 17-3-102" in (5).

CHAPTER 16

ATHLETE AGENTS

SUBCHAPTER.

1. UNIFORM ATHLETE AGENTS ACT.

SUBCHAPTER 1 — UNIFORM ATHLETE AGENTS ACT

SECTION.

17-16-105. Registration as athlete agent — Form — Requirements.

A.C.R.C. Notes. This uniform act has been substantially modified, amended, and parts repealed by the Arkansas General Assembly.

17-16-105. Registration as athlete agent — Form — Requirements.

(a) An applicant for registration shall submit an application for registration to the Secretary of State in a form prescribed by the Secretary of State. An application filed under this section is a public

record. The application must be in the name of an individual and, except as otherwise provided in subsection (b), signed or otherwise authenticated by the applicant under penalty of perjury and state or contain:

- (1) the name of the applicant and the address of the applicant's principal place of business;
 - (2) the name of the applicant's business or employer, if applicable;
 - (3) any business or occupation engaged in by the applicant for the five (5) years next preceding the date of submission of the application;
 - (4) a description of the applicant's:
 - (A) formal training as an athlete agent;
 - (B) practical experience as an athlete agent; and
 - (C) educational background relating to the applicant's activities as an athlete agent;
 - (5) the names and addresses of three (3) individuals not related to the applicant who are willing to serve as references;
 - (6) the name, sport, and last known team for each individual for whom the applicant acted as an athlete agent during the five (5) years next preceding the date of submission of the application;
 - (7) the names and addresses of all persons who are:
 - (A) with respect to the athlete agent's business if it is not a corporation, the partners, members, officers, managers, associates, or profit-sharers of the business; and
 - (B) with respect to a corporation employing the athlete agent, the officers, directors, and any shareholder of the corporation having an interest of five percent (5%) or greater;
 - (8) whether the applicant or any person named pursuant to paragraph (7) has been convicted of a crime that, if committed in this State, would be a crime involving a felony listed under § 17-3-102, and identify the crime;
 - (9) whether there has been any administrative or judicial determination that the applicant or any person named pursuant to paragraph (7) has made a false, misleading, deceptive, or fraudulent representation;
 - (10) any instance in which the conduct of the applicant or any person named pursuant to paragraph (7) resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student-athlete or educational institution;
 - (11) any sanction, suspension, or disciplinary action taken against the applicant or any person named pursuant to paragraph (7) arising out of occupational or professional conduct; and
 - (12) whether there has been any denial of an application for, suspension or revocation of, or refusal to renew, the registration or licensure of the applicant or any person named pursuant to paragraph (7) as an athlete agent in any State.
- (b) An individual who has submitted an application for, and holds a certificate of, registration or licensure as an athlete agent in another

State, may submit a copy of the application and certificate in lieu of submitting an application in the form prescribed pursuant to subsection (a). The Secretary of State shall accept the application and the certificate from the other State as an application for registration in this State if the application to the other State:

(1) was submitted in the other State within six (6) months next preceding the submission of the application in this State and the applicant certifies that the information contained in the application is current;

(2) contains information substantially similar to or more comprehensive than that required in an application submitted in this State; and

(3) was signed by the applicant under penalty of perjury.

History. Acts 2001, No. 1622, § 5; in (a)(8), deleted “moral turpitude or” following “involving” and added “listed under § 17-3-102”.

Amendments. The 2019 amendment,

CHAPTER 17

AUCTIONEERS

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. AUCTIONEER'S LICENSING BOARD.
3. LICENSING.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 17-17-103. Definitions.
17-17-112. Written contract.

SECTION.

- 17-17-114. Civil penalty.

17-17-103. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) “Auctioneer” means any person who, for a fee, commission, or any other valuable consideration, or with the intention or expectation of receiving the same, by the means of, or process of, an auction or sale at auction, offers, negotiates, or attempts to negotiate, a listing contract, sale, purchase, or exchange of goods, chattels, merchandise, or personal property, or of any other commodity which may lawfully be kept or offered for sale by or at public auction;

(2) “Goods” means any chattels, goods, merchandise, or personal property, or commodities of any form or type which may be lawfully kept or offered for sale;

(3) “Livestock auction barn” means a place where livestock is sold on a regular basis to the public;

(4) “Livestock auction barn auctioneer” means an auctioneer who is solely engaged in the selling of livestock on a regular basis at one (1) or more locations; and

(5) "Persons" includes individuals, associations, partnerships, and corporations, and the word "persons" shall also include the officers, directors, and employees of a corporation.

History. Acts 1989, No. 266, § 3; 2019, No. 386, § 2.

Amendments. The 2019 amendment deleted former (2).

17-17-112. Written contract.

(a) An auctioneer may not sell the property of another at auction without a prior written contract with the seller which sets forth the terms and conditions upon which the auctioneer will sell the property. The licensee must retain a copy of each contract for at least three (3) years after the auction.

(b) The Auctioneer's Licensing Board is authorized to prescribe by rule the minimum requirements which must be included in a written contract.

History. Acts 1999, No. 1333, § 1; 2019, No. 315, § 1348.

Amendments. The 2019 amendment substituted "rule" for "regulations" in (b).

17-17-114. Civil penalty.

(a)(1) Whenever the Auctioneer's Licensing Board finds that the holder of a license issued by the board is guilty of a violation of the rules of the board or the laws of the State of Arkansas pertaining to any occupation, profession, or business licensed or regulated by the board, it shall have the power and authority to impose a civil penalty and suspension or revocation of the license.

(2) Upon imposition of a civil penalty, the board shall have the power and authority to require that the licensee pay a penalty to the board in regard to the violation with the sanction that the license may be suspended until the penalty is paid.

(3) Before the imposition of any penalty, the board shall hold an investigation and hearing after notice to a licensee or his or her attorney. The penalty may be imposed only if the board formally finds that the public health, safety, welfare, and morals would not be impaired thereby and that payment of the penalty will achieve the desired disciplinary result.

(b) No penalty imposed by the board may exceed a total of one thousand dollars (\$1,000). The power and authority of the board to impose these penalties shall not be affected by any other civil or criminal proceeding concerning the same violation.

(c) If any person upon whom the board has levied a civil penalty fails to pay the civil penalty within sixty (60) days of the board's decision to impose the penalty, the amount of the fine shall be considered to be a debt owed to the board and may be collected by civil action by the board.

(d) Any person penalized by the board under this chapter may appeal any order of the board in the manner now provided by law.

- (e) In addition to any other sanctions authorized by this chapter, the board may impose a civil penalty as provided in this section against any unlicensed person, firm, or corporation practicing or offering to practice any actions requiring licensure pursuant to the provisions of this chapter.
- (f) The board is authorized to promulgate rules to implement the provisions of this chapter.

History. Acts 1999, No. 1333, § 3; **Amendments.** The 2019 amendment 2003, No. 1748, § 1; 2019, No. 315, substituted “rules” for “regulations” in (f). § 1349.

SUBCHAPTER 2 — AUCTIONEER’S LICENSING BOARD

SECTION.	SECTION.
17-17-203. Employees.	17-17-207. Rules.
17-17-204. Director — Disposition of funds.	17-17-209. Seal — Records.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

17-17-203. Employees.

- (a) The Auctioneer’s Licensing Board shall have authority to employ, in consultation with the Secretary of the Department of Labor and Licensing, and discharge a Director of the Auctioneer’s Licensing Board who shall provide administrative services to the board and who shall also be the Treasurer of the Auctioneer’s Licensing Board, and such other personnel as may be necessary to administer and enforce the provisions of this chapter.
- (b) [Repealed.]

History. Acts 1989, No. 266, § 6; 2019, No. 910, §§ 5407, 5408. **Amendments.** The 2019 amendment rewrote (a); and repealed (b).

17-17-204. Director — Disposition of funds.

- (a) All fees, charges, and penalties collected by the Auctioneer’s Licensing Board under the provisions of this chapter shall be paid to the

Director of the Auctioneer's Licensing Board, who shall be the custodian of all funds and shall deposit them into a bank or banks to be designated by the board.

(b) The director shall execute a bond in an amount determined by the State Risk Manager pursuant to the self-insured fidelity program as authorized in § 21-2-701 et seq.

(c)(1) The director shall pay funds of the board only on vouchers signed by himself or herself and countersigned by the Chair of the Auctioneer's Licensing Board.

(2) The total expenses for all purposes and obligations of the board shall not exceed the total fees, charges, penalties, and other funds paid to the board under the provisions of this chapter.

(d) The director shall make semiannual financial reports in detail to the board not later than January 30 and July 30 of each year, which will be kept on permanent file by the board.

History. Acts 1989, No. 266, § 6; 1999, No. 1333, §§ 5, 6; 2019, No. 910, § 5409.

Amendments. The 2019 amendment substituted "Director" for "Secretary-trea-

surer" in the section heading and in (a); and substituted "director" for "secretary-treasurer" in (b) and (d).

17-17-207. Rules.

The Auctioneer's Licensing Board shall have the authority to promulgate such rules as may be necessary to implement this chapter and may establish by rule such forms as may be necessary to administer this chapter.

History. Acts 1989, No. 266, § 6; 2019, No. 315, § 1350.

Amendments. The 2019 amendment

deleted "and regulations" following "rules" in the section heading and text; and substituted "rule" for "regulation".

17-17-209. Seal — Records.

(a) The Auctioneer's Licensing Board shall adopt a seal by which it shall authenticate its proceedings.

(b) Copies of all records and papers in the office of the board, duly certified and authenticated by the seal of the board, shall be received in evidence in all courts equally and with like effect as the original.

(c) All records kept in the office of the board under the authority of this chapter shall be open to public inspection under such rules as shall be prescribed by the board.

History. Acts 1989, No. 266, § 14; 2019, No. 315, § 1351.

Amendments. The 2019 amendment

deleted "and regulations" following "rules" in (c).

SUBCHAPTER 3 — LICENSING**SECTION.**

17-17-308. Suspension or revocation.

17-17-311. Continuing education.

SECTION.

17-17-312. Criminal background checks.

17-17-308. Suspension or revocation.

The Auctioneer's Licensing Board may impose a civil penalty or suspend or revoke the license of an auctioneer for any of the following causes:

- (1) Obtaining a license through false or fraudulent representation;
- (2) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or advertising or otherwise;
- (3) Failing to account for or remit within a reasonable time any money belonging to others that comes into his or her possession;
- (4) Commingling funds of others with his or her own or failing to keep the funds of others in an escrow or trustee account;
- (5) Paying valuable consideration to any person for services performed in violation of this chapter;
- (6) Being convicted of a criminal offense involving a felony listed under § 17-3-102 in a court of competent jurisdiction of this or any other jurisdiction;
- (7) Willfully violating a rule promulgated by the board;
- (8) Failing to enter into a written contract with the seller and to furnish voluntarily to the seller at the time of execution copies of all written instruments prepared by the auctioneer, including the contract;
- (9) Any conduct of an auctioneer that demonstrates bad faith, dishonesty, incompetency, untruthfulness, or deceptive practices;
- (10) Any other conduct that constitutes improper, fraudulent, or dishonest dealings, including falsely accusing any auctioneer or auction house;
- (11) Failing to complete or submit the continuing education requirements as specified by this chapter and the rules adopted by the board; or
- (12) Failing to disclose the buyer's premium in all advertising associated with an auction.

History. Acts 1989, No. 266, § 11; 1999, No. 1333, § 7; 1999, No. 1506, § 2; 2001, No. 1258, § 1; 2003, No. 1748, § 4; 2019, No. 315, §§ 1352, 1353; 2019, No. 990, § 20.

Amendments. The 2019 amendment by No. 315 deleted "or regulation" follow-

ing "rule" in (7); and deleted "and regulations" following "rules" in (11).

The 2019 amendment by No. 990, in (6), deleted "moral turpitude or" following "involving" and inserted "listed under § 17-3-102".

17-17-311. Continuing education.

(a) Except as provided in subsection (c) of this section, every application to the Auctioneer's Licensing Board for annual renewal of the license of an auctioneer shall be accompanied by proof that the

applicant has satisfactorily completed six (6) hours of continuing education in approved programs within the preceding twelve-month period. No auctioneer's license shall be renewed unless the application for renewal is accompanied by the proof required in this section.

(b) All programs of continuing education for licensed auctioneers shall be subject to approval of the board. The board is authorized to prescribe by rule the minimum standards and requirements for continuing education programs for auctioneers, the procedures and policies for administering such programs, and the manner and conditions under which credit will be granted for participation in such programs.

(c) The continuing education requirements of this section shall not be applicable to any person who has been licensed as an auctioneer or auction house owner or operator by the board for a period of ten (10) consecutive years or more and who is at least fifty-five (55) years of age.

History. Acts 1999, No. 1506, § 1; 2001, No. 1754, § 1; 2019, No. 315, § 1354. **Amendments.** The 2019 amendment substituted "rule" for "regulations" in the second sentence of (b).

17-17-312. Criminal background checks.

(a) Beginning July 16, 2003, each first-time applicant for a license issued by the Auctioneer's Licensing Board and each applicant seeking reinstatement of an expired license from the board shall be required to apply to the Identification Bureau of the Division of Arkansas State Police for a state and national criminal background check to be conducted by the Federal Bureau of Investigation.

(b) The check shall conform to the applicable federal standards and shall include the taking of fingerprints.

(c) The applicant shall sign a release of information to the board and shall be responsible to the Division of Arkansas State Police for the payment of any fee associated with the criminal background check.

(d) Upon completion of the criminal background check, the Identification Bureau of the Division of Arkansas State Police shall forward to the board all information obtained concerning the applicant in the commission of any offense listed in subsection (f) of this section.

(e) At the conclusion of any background check required by this section, the Identification Bureau of the Division of Arkansas State Police shall promptly destroy the fingerprint card of the applicant.

(f) No person shall be eligible to receive or hold a license issued by the board if that person has pleaded guilty or nolo contendere to, or been found guilty of, any of the following offenses by any court in the State of Arkansas or of any similar offense by a court in another state or of any similar offense by a federal court:

- (1) Capital murder, as prohibited in § 5-10-101;
- (2) Murder in the first degree and second degree, as prohibited in §§ 5-10-102 and 5-10-103;
- (3) Manslaughter, as prohibited in § 5-10-104;
- (4) Negligent homicide, as prohibited in § 5-10-105;

- (5) Kidnapping, as prohibited in § 5-11-102;
- (6) False imprisonment in the first degree, as prohibited in § 5-11-103;
- (7) Permanent detention or restraint, as prohibited in § 5-11-106;
- (8) Robbery, as prohibited in § 5-12-102;
- (9) Aggravated robbery, as prohibited in § 5-12-103;
- (10) Battery in the first degree, as prohibited in § 5-13-201;
- (11) Aggravated assault, as prohibited in § 5-13-204;
- (12) Introduction of a controlled substance into the body of another person, as prohibited in § 5-13-210;
- (13) Aggravated assault upon a law enforcement officer or an employee of a correctional facility, § 5-13-211, if a Class Y felony;
- (14) Terroristic threatening in the first degree, as prohibited in § 5-13-301;
- (15) Rape, as prohibited in § 5-14-103;
- (16) Sexual indecency with a child, as prohibited in § 5-14-110;
- (17) Sexual extortion, § 5-14-113;
- (18) Sexual assault in the first degree, second degree, third degree, or fourth degree, as prohibited in §§ 5-14-124 — 5-14-127;
- (19) Incest, as prohibited in § 5-26-202;
- (20) Offenses against the family, as prohibited in §§ 5-26-303 — 5-26-306;
- (21) Endangering the welfare of an incompetent person in the first degree, as prohibited in § 5-27-201;
- (22) Endangering the welfare of a minor in the first degree, as prohibited in § 5-27-205;
- (23) Permitting the abuse of a child, as prohibited in § 5-27-221;
- (24) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, pandering or possessing a visual or print medium depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, as prohibited in §§ 5-27-303 — 5-27-305, 5-27-402, and 5-27-403;
- (25) Felony adult abuse, as prohibited in § 5-28-103;
- (26) Theft of property, as prohibited in § 5-36-103;
- (27) Theft by receiving, as prohibited in § 5-36-106;
- (28) Arson, as prohibited in § 5-38-301;
- (29) Burglary, as prohibited in § 5-39-201;
- (30) Felony violation of the Uniform Controlled Substances Act, § 5-64-101 et seq., as prohibited in the former § 5-64-401 and §§ 5-64-419 — 5-64-442;
- (31) Promotion of prostitution in the first degree, as prohibited in § 5-70-104;
- (32) Stalking, as prohibited in § 5-71-229; and
- (33) Criminal attempt, criminal complicity, criminal solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection.

(g)(1) The provisions of subsection (f) of this section may be waived by the board upon the request of:

- (A) An affected applicant for licensure; or
- (B) The person holding a license subject to revocation.

(2) Circumstances for which a waiver may be granted shall include, but not be limited to, the following:

- (A) The age at which the crime was committed;
- (B) The circumstances surrounding the crime;
- (C) The length of time since the crime;
- (D) Subsequent work history;
- (E) Employment references; and
- (F) Character references.

(h)(1) Any information received by the board from the Identification Bureau of the Division of Arkansas State Police under this section shall not be available for examination except by the:

- (A) Affected applicant for licensure, or his or her authorized representative; or
- (B) Person whose license is subject to revocation, or his or her authorized representative.

(2) No record, file, or document shall be removed from the custody of the Division of Arkansas State Police.

(i) Any information made available to the affected applicant for licensure or to the person whose license is subject to revocation shall be information pertaining to that person only.

(j) Rights of privilege and confidentiality established under this section shall not extend to any document created for purposes other than this background check.

(k) The board shall adopt the necessary rules to fully implement the provisions of this section.

History. Acts 2003, No. 834, § 1; 2011, No. 570, § 119; 2017, No. 367, § 15; 2017, No. 664, § 9; 2019, No. 315, § 1355.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (k).

CHAPTER 18

AUTOMOTIVE PARTS DEALERS

SECTION.

17-18-102. Penalty.

17-18-103. Authority of Division of Arkansas State Police.

17-18-102. Penalty.

A person who violates this chapter or a rule hereunder shall be fined not less than twenty-five dollars (\$25.00) and not more than five hundred dollars (\$500).

History. Acts 1963, No. 108, § 6; A.S.A. 1947, § 75-1806; Acts 2019, No. 315, § 1356. **Amendments.** The 2019 amendment substituted “rule” for “regulation”.

17-18-103. Authority of Division of Arkansas State Police.

The Division of Arkansas State Police is empowered to make and enforce reasonable rules to effectuate the purpose of this chapter.

History. Acts 1963, No. 108, § 4; A.S.A. 1947, § 75-1804; Acts 2019, No. 315, § 1357. **Amendments.** The 2019 amendment substituted “rules” for “regulations”.

CHAPTER 19
BAIL BONDSMEN

SUBCHAPTER.

- 1. GENERAL PROVISIONS.
- 2. LICENSING.
- 3. BOND REQUIREMENTS — POSTING OF BONDSMEN LIST.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

SECTION.

17-19-101. Definitions.		Bondsman	Licensing
17-19-105. Prohibitions.		Board.	
17-19-106. Professional Bail Bond Company and Professional Bail	17-19-108. Rules.		

17-19-101. Definitions.

- As used in this chapter, unless the context otherwise requires:
- (1) “Bail bond or appearance bond” means a bond for a specified monetary amount which is executed by the defendant and a qualified licensee under this chapter and which is issued to a court, magistrate, or authorized officer as security for the subsequent court appearance of the defendant upon his or her release from actual custody pending the appearance;
 - (2) “Insurer” means any surety company which has qualified to transact surety business in this state;
 - (3) “Licensee” means a professional bail bond company or a professional bail bondsman;
 - (4) “Professional bail bond company” means an individual who is a resident of this state, an Arkansas firm, partnership, or corporation, or a foreign corporation registered and authorized to conduct business in the State of Arkansas that pledges a bail bond in connection with a judicial proceeding and receives or is promised therefor money or other things of value; and
 - (5) “Professional bail bondsman” means an individual who is a resident of this state and who acts through authority of a professional

bail bond company in pledging a bail bond as security in a judicial proceeding.

History. Acts 1989, No. 417, § 1; 1995, No. 827, §§ 1, 3; 2019, No. 386, § 3.

Amendments. The 2019 amendment deleted former (2).

17-19-105. Prohibitions.

No professional bail bondsman or professional bail bond company, nor court, nor law enforcement officer, nor any individual working on behalf of a professional bail bondsman or professional bail bond company, shall:

(1) Require as a condition of his or her executing a bail bond that the principal agree to engage the services of a specified attorney;

(2) Solicit business or advertise for business in or about any place where prisoners are confined or in or about any court;

(3) Suggest or advise the engagement of any bail bond company or professional bail bondsman to underwrite a bail bond;

(4) Enter a police station, jail, sheriff's office, or other place where persons in custody of the law are detained for the purpose of obtaining employment as a professional bail bondsman or professional bail bond company, without having been previously called by a person so detained or by some relative or other authorized person acting for or in behalf of the person so detained. Whenever such an entry occurs, the person in charge of the facility shall be given and promptly record the mission of the licensee and the name of the person calling the licensee and requesting him or her to come;

(5) Pay a fee or rebate or give or promise anything of value to:

(A) A jailer, police officer, peace officer, committing magistrate, or any other person who has power to arrest or to hold in custody; or

(B) Any public official or public employee in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond or estreatment thereof;

(6) Pay a fee or rebate or give anything of value to an attorney in bail bond matters, except in defense of any action on a bond;

(7) Pay a fee or rebate or give or promise anything of value to the principal or anyone in his or her behalf;

(8)(A) Participate in the capacity of an attorney at a trial or hearing of one on whose bond he or she is surety;

(B) Attempt to obtain settlement or dismissal of a case;

(C) Give or attempt to give any legal advice to one on whose bond he or she is surety;

(9) Accept anything of value from a principal except the premium, provided that the licensee shall be permitted to accept collateral security or other indemnity from the principal which shall be returned upon final termination of liability on the bond. The collateral security or other indemnity required by the licensee must be reasonable in relation to the amount of the bond; or

(10) Permit a bail bond to be executed to effect the release of a defendant without the bondsman's being physically present.

History. Acts 1989, No. 417, § 1; 1997, No. 973, § 5; 2021, No. 1039, § 1.

Amendments. The 2021 amendment added (10).

17-19-106. Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.

(a) This section may be cited as the “Arkansas Professional Bail Bond Company and Professional Bail Bondsman Licensing Act”.

(b)(1) There is hereby created the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.

(2)(A) The board shall be composed of seven (7) members to be appointed by the Governor for terms of seven (7) years.

(B) Vacancies shall be filled by appointment of the Governor for the unexpired portion of the term.

(3)(A) Three (3) members of the board shall be licensed bail bond company owners, one (1) a current or former municipal chief of police, one (1) a current or former county sheriff, and two (2) shall be residents of the state who are not a bail bond company owner, a sheriff, or a chief of police.

(B)(i) Each congressional district shall be represented by at least one (1) member of the board.

(ii) At least one (1) board member shall be an African-American.

(iii) At least one (1) board member shall be a female.

(4) The board shall have the authority and responsibility to administer and enforce the provisions of this chapter relating to licensing and regulation of professional bail bond companies and professional bail bondsmen.

(5) The board shall have the authority to adopt and enforce such reasonable rules as it determines to be necessary to enable it to effectively and efficiently carry out its official duty of licensing and regulating professional bail bond companies and professional bail bondsmen.

(c) The members of the board shall receive expense reimbursement in accordance with § 25-16-901 et seq., and a stipend pursuant to § 25-16-904.

(d) The provisions of this section shall not be construed to repeal any laws in effect on August 13, 1993, relating to the licensing and regulation of professional bail bond companies and professional bail bondsmen but such laws shall remain in full force and effect and shall be administered by the board created herein.

History. Acts 1993, No. 500, §§ 1-5; 1995, No. 827, § 2; 1997, No. 250, § 126; 1999, No. 1286, § 2; 2001, No. 1817, § 1; 2009, No. 683, §§ 1, 2; 2019, No. 315, § 1358; 2021, No. 1033, § 1.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (b)(5).

The 2021 amendment “seven (7) members” for “eight (8) members” in (b)(2)(A); in (b)(3)(A), inserted “current or former” twice, deleted “one (1) a municipal or circuit judge” following “county sheriff”, and deleted “an elected judge” following “owner”; rewrote (b)(3)(B)(i); and made a stylistic change.

17-19-108. Rules.

The Professional Bail Bond Company and Professional Bail Bondsman Licensing Board shall adopt such reasonable rules as it shall deem necessary to assure the effective and efficient administration of §§ 17-19-107 and 17-19-212 and § 17-19-401 et seq.

History. Acts 1993, No. 499, § 7; 2019, No. 315, § 1359.

Amendments. The 2019 amendment

deleted “and regulations” following “rules” in the section heading and text.

SUBCHAPTER 2 — LICENSING

SECTION.

- 17-19-201. Licenses required.
- 17-19-202. Applications.
- 17-19-203. Character references.
- 17-19-207. Expiration and renewal.

SECTION.

- 17-19-210. Suspension and penalties — Review.
- 17-19-212. Licenses.

Effective Dates. Acts 2019, No. 819, § 26(a): May 1, 2021. Effective date clause provided: “Sections 3-17 and 20-24 of this act are effective on and after May 1, 2021.”

Acts 2021, No. 523, § 26: Apr. 1, 2021. Effective date clause provided: “It is found and determined by the General Assembly that Acts 2019, No. 819 transferred collection and administration of corporate franchise tax from the Secretary of State to the Department of Finance and Administration; that this transfer has created hardships and compliance issues for Arkansas taxpayers; that these issues necessitate the immediate return of the collection and administration of the franchise tax back to the Secretary of State; that

Acts 2019, No. 819 will take effect on May 1, 2021; and that the immediate return of the franchise tax collection responsibilities to the Secretary of State will prevent further tax compliance issues for Arkansas taxpayers. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor. (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

17-19-201. Licenses required.

(a) No person shall engage in bail bond business without first having been licensed as provided in this chapter.

(b) A professional bail bondsman shall not execute, issue, or deliver an appearance bond in this state without holding a valid appointment from a professional bail bond company and without attaching to the appearance bond an executed and numbered power of attorney referencing the professional bail bond company.

(c) An insurer shall not execute an undertaking of bail without being licensed as a professional bail bond company.

(d) A professional bail bond company shall not engage in the bail bond business:

(1) Without having been licensed as a professional bail bond company under this chapter; and

(2) Except through an agent licensed as a professional bail bondsman under this chapter.

(e) A professional bail bond company shall not permit any unlicensed person to solicit or engage in the bail bond business in the company's behalf, except for individuals who are employed solely for the performance of clerical, stenographic, investigative, or other administrative duties which do not require a license under this chapter and whose compensation is not related to or contingent upon the number of bonds written.

History. Acts 1989, No. 417, § 1; 2021, No. 1039, § 2.

Amendments. The 2021 amendment inserted "or deliver" in (b).

17-19-202. Applications.

(a) Every applicant for a professional bail bondsman license or a professional bail bond company license shall apply on forms furnished by the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.

(b) The application of a professional bail bondsman shall be accompanied by a duly executed power of attorney issued by the professional bail bond company for whom the professional bail bondsman will be acting.

(c)(1) An application for a professional bail bond company license shall be accompanied by proof that the applicant:

(A) Is an Arkansas partnership, firm, or corporation, a foreign corporation registered and authorized to conduct business in the State of Arkansas, or an individual who is a resident of the state; and

(B) Has at least one (1) owner or partner that has been licensed for at least two (2) years during the last three (3) years by the State of Arkansas as a professional bail bondsman.

(2) A corporation shall file proof that its most recent annual franchise tax has been paid to the Secretary of State.

(d)(1)(A) At the time of application for every professional bail bond company license, there shall be paid to the board:

(i) For a new company license, a fee of two thousand five hundred dollars (\$2,500); or

(ii) For a renewal of a company license, a fee of one thousand dollars (\$1,000).

(B) Each professional bail bond company license or renewal for a sole proprietor, partnership, or corporation shall include one (1) license for one (1) agent per company per year.

(2) Each applicant for a professional bail bondsman license shall pay the board a license fee of one hundred dollars (\$100) at the time of application, except that if the applicant is also an applicant as an individual for a professional bail bond company license, then the applicant shall not be required to pay a license fee for licensure as a

professional bail bondsman but shall comply with all other requirements for licensure as a professional bail bondsman.

(3) License fees shall be payable in full on a yearly basis regardless of the date of issuance.

(4) Any agent who transfers his or her license from one professional bail bond company to another shall:

(A) Pay to the board a transfer fee of two hundred fifty dollars (\$250); and

(B) File with the board:

(i) A sworn affidavit stating that all premiums, fees, and powers of attorney owed to or issued by the professional bail bond company from which he or she is transferring his or her license have been delivered to the company;

(ii) A letter of resignation addressed to the professional bail bond company from which he or she is transferring or a letter of termination addressed to him or her from the professional bail bond company terminating his or her appointment;

(iii) A completed agent application on forms prescribed by the board;

(iv) A completed company statement from the company to which he or she desires to transfer his or her license; and

(v) An original qualifying power of attorney issued by the company to which he or she desires to transfer his or her license.

(5)(A) Upon receipt of a request for transfer of a bail bondsman license, the applicable transfer fee, and the documents specified in subdivision (d)(4) of this section, the board shall forward copies of the letter of resignation, if applicable, and the sworn affidavit of the agent to the professional bail bond company from which the agent desires to transfer his or her license.

(B) Upon receipt of the letter of resignation, if applicable, and the sworn affidavit of the licensee, the professional bail bond company from which the agent is transferring shall have seven (7) business days to contest the agent's sworn statement.

(C) A professional bail bond company contesting an agent's sworn statement shall file a written complaint on forms furnished by the board setting out in detail the property that the company denies the agent has returned as attested by the sworn affidavit.

(D) Any documents supporting the complaint contesting the sworn affidavit and which shall be offered as evidence to prove the complaint shall be filed with the complaint.

(E) Upon receipt of the complaint, the Executive Director of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board shall set the matter for informal hearing to be held within seven (7) days of receipt of the complaint and advise the professional bail bond company and the agent by certified mail, return receipt requested, of the date, time, and location of the informal hearing.

(F) Either party may appeal the decision of the executive director to a formal hearing before the board by filing with the board a notice

of appeal within seven (7) days of receipt of the decision by the executive director.

(G)(i) No transfer of an agent's license shall be effective before the expiration of the seven-day period for contesting the transfer request unless the professional bail bond company from which the agent is requesting a transfer shall notify the board that it has no objection to the transfer, in which case the transfer may be entered before expiration of the seven-day period.

(ii) If no complaint contesting the agent's sworn affidavit is received during the seven-day contest period, the license shall be transferred as requested.

(iii) A professional bail bond company that does not contest the sworn affidavit of a transferring agent is not precluded by the failure to contest the sworn affidavit from filing a complaint that alleges a violation of the applicable statutes or rules by the transferring agent upon discovery of the alleged violation by the professional bail bond company.

(H)(i) If the allegations of a complaint contesting the transfer are found by the board to have been established, no transfer of the license shall be accomplished until the agent accounts for, returns, or pays to the professional bail bond company contesting the transfer the property or money issued to or held in a fiduciary capacity by the agent.

(ii) If a complaint is filed contesting the sworn affidavit of the transferring agent, a specific finding of fact shall be made by the board concerning whether the affidavit or complaint contesting the affidavit was filed in good faith by the respective parties.

(iii) In the case of a finding of a lack of good faith, the party to whom the finding applies shall be subject to sanctions or disciplinary action pursuant to the provisions of § 17-19-210 and as provided by applicable rules.

History. Acts 1989, No. 417, § 1; 1995, No. 827, § 4; 1999, No. 567, § 1; 2001, No. 1680, § 1; 2005, No. 858, § 1; 2005, No. 1960, § 1; 2019, No. 315, § 1360; 2019, No. 819, § 12; 2021, No. 523, § 11.

A.C.R.C. Notes. Acts 2019, No. 819, § 1, provided: "Title. This act shall be known and may be cited as the 'Arkansas Tax Reform Act of 2019'."

Acts 2019, No. 819, § 2, provided: "Legislative findings and intent.

"(a) The General Assembly finds that:

"(1) The Arkansas Tax Reform and Relief Legislative Task Force was charged with:

"(A) Examining and identifying areas of potential tax reform within the tax laws; and

"(B) Recommending legislation to the General Assembly, in part, to modernize

and simplify the Arkansas tax code and ensure fairness to all taxpayers;

"(2) There are several areas of the tax code that should be amended to reform the state's tax laws to modernize and simplify the tax code and ensure fairness to all taxpayers; and

"(3) Any savings realized by the state through tax reforms should be dedicated to reducing the tax burden for Arkansas taxpayers.

"(b) It is the intent of the General Assembly to:

"(1) Reform Arkansas tax laws to modernize and simplify the tax code and ensure fairness to all taxpayers; and

"(2) Offset any revenue savings realized through tax reform with corresponding changes to reduce the tax burden for Arkansas taxpayers."

Acts 2021, No. 523, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly finds that:

"(1) Acts 2019, No. 819 will transfer responsibility for franchise tax collection and administration from the Secretary of State to the Department of Finance and Administration on May 1, 2021;

"(2) In an effort to achieve a more seamless transition, the department began collecting and administering the franchise tax on January 1, 2021, under a Memorandum of Understanding with the Secretary of State;

"(3) The transfer of franchise tax collection and administration has negatively impacted Arkansas taxpayers as they seek to comply with their franchise tax obligations; and

"(4) Unless franchise tax collection and administration responsibilities are immediately transferred from department back to the Secretary of State, Arkansas taxpayers will face significant difficulties as they seek to comply with Arkansas franchise tax laws.

"(b) It is the intent of the General Assembly:

"(1) To reverse the effects of certain provisions in Acts 2019, No. 819 by trans-

ferring the administration and collection of the franchise tax from the department back to the Secretary of State;

"(2) That the Secretary of State should continue to administer the collection of franchise tax; and

"(3) To accomplish this transfer in a manner that results in minimal impact to Arkansas taxpayers."

Publisher's Notes. Acts 2021, No. 523, § 11, effective April 1, 2021, specifically amended this section as amended by Acts 2019, No. 819, § 12, and effective on and after May 1, 2021.

Amendments. The 2019 amendment by No. 315 substituted "statutes or rules" for "statutes, rules, or regulations" in (d)(5)(G)(iii).

The 2019 amendment by No. 819 substituted "Department of Finance and Administration" for "Secretary of State" in (c)(2).

The 2021 amendment substituted "Secretary of State" for "Department of Finance and Administration" in (c)(2).

Effective Dates. Acts 2019, No. 819, § 26(a): May 1, 2021. Effective date clause provided: "Sections 3-17 and 20-24 of this act are effective on and after May 1, 2021."

17-19-203. Character references.

Each applicant for a professional bail bondsman license shall:

(1) File with the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board written statements from at least three (3) persons who know his or her character;

(2)(A) Be required to apply to the Identification Bureau of the Division of Arkansas State Police for a state and nationwide criminal records check to be conducted by the Federal Bureau of Investigation.

(B) The criminal records check shall conform to the applicable federal standards and shall include the taking of fingerprints.

(C) The applicant shall sign a release of information to the board and shall be responsible to the Division of Arkansas State Police for the payment of any fee associated with the criminal records check.

(D) Upon completion of the criminal records check, the Identification Bureau shall forward all information obtained concerning the applicant to the board.

(E) At the conclusion of the criminal background check required by this subdivision (2), the Identification Bureau shall promptly destroy the fingerprint card of the applicant; and

(3) Provide other proof as the board may require that he or she is competent, trustworthy, financially responsible, and of good personal

and business reputation and has not been convicted of a felony listed under § 17-3-102.

History. Acts 1989, No. 417, § 1; 1995, No. 827, § 4; 1999, No. 1346, § 1; 2019, No. 990, § 21.

Amendments. The 2019 amendment, in (3), substituted "Provide other proof"

for "Such other proof" and substituted "felony listed under § 17-3-102" for "felony or any offense involving moral turpitude".

17-19-207. Expiration and renewal.

(a) Every license issued pursuant to this chapter shall be for a term expiring on December 31 following the date of its issuance, and it may be renewed for the ensuing calendar year upon the filing of a renewal application.

(b) The Professional Bail Bond Company and Professional Bail Bondsman Licensing Board may refuse to renew a license for any cause for which issuance of the original license could have been refused or for the licensee's violation of any of the provisions of this chapter or the rules of the board.

(c) Every licensee shall be required to file a renewal application, the form and subject matter of which shall be prescribed by the board.

(d)(1) At the time of application for renewal of a professional bail bond company license, there shall be paid to the board for the company's renewal license a fee of one thousand dollars (\$1,000).

(2) Each professional bail bondsman shall pay a fee of one hundred dollars (\$100) for renewal of the license, except that if the applicant for renewal also holds a professional bail bond company license, then the applicant shall not be required to pay a renewal fee for a professional bail bondsman license.

History. Acts 1989, No. 417, § 1; 1995, No. 827, § 4; 2019, No. 315, § 1361.

deleted "and regulations" following "rules" in (b).

Amendments. The 2019 amendment

17-19-210. Suspension and penalties — Review.

(a) The Professional Bail Bond Company and Professional Bail Bondsman Licensing Board, should it determine that the licensee or any member of a company which is so licensed committed an act listed in subsection (b) of this section, may:

- (1) Suspend the license for up to twelve (12) months;
- (2) Revoke or refuse to continue any license;
- (3) Impose an administrative penalty in an amount not to exceed ten thousand dollars (\$10,000); or
- (4) Impose both a suspension of up to twelve (12) months and an administrative penalty in an amount not to exceed ten thousand dollars (\$10,000).

(b) A licensee is subject to the penalties of subsection (a) of this section should it be found that the licensee:

(1) Violated any provision of or any obligation imposed by this chapter or any lawful rule or order of the board or has been convicted of a felony listed under § 17-3-102;

(2) Made a material misstatement in the application for license, in the application for renewal license, or in the financial statement which accompanies the application or renewal application for license as a professional bail bond company;

(3) Committed any fraudulent or dishonest acts or practices or demonstrated incompetency or untrustworthiness to act as a licensee;

(4) Charged or received, as premium or compensation for the making of any deposit or bail bond, any sum in excess of that permitted by law;

(5) Required as a condition of executing a bail bond that the principal agree to engage the services of a specified attorney;

(6) Signed, executed, or issued bonds with endorsements in blank, or prepared or issued fraudulent or forged bonds or power of attorney;

(7) Failed in the applicable regular course of business to account for and to pay premiums held by the licensee in a fiduciary capacity to the professional bail bond company or other person entitled thereto; or

(8) Failed to comply with the provisions of the laws of this state, or rule or order of the board for which issuance of the license could have been refused had it then existed and been known to the board.

(c) The acts or conduct of a professional bail bondsman who acts within the scope of the authority delegated to him or her shall also be deemed the act or conduct of the professional bail bond company for which the professional bail bondsman is acting as agent.

(d) If the board finds that one (1) or more grounds exist for the suspension or revocation of a license, the board may in its discretion request that formal charges be filed against the violator and that penalties set out in § 17-19-102 be imposed.

(e) If the board finds that one (1) or more grounds exist for the suspension or revocation of a license and that the license has been suspended within the previous twenty-four (24) months, then the board shall revoke the license.

(f) The board may not again issue a license under this chapter to any person or entity whose license has been revoked.

(g) If the board determines that the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, a summary suspension of a license issued under this chapter may be ordered pending an administrative hearing before the board, which shall be promptly instituted.

(h) If a professional bail bond company license is so suspended or revoked, a member of the company or officer or director of the corporation shall not be licensed or be designated in any license to exercise the powers thereof during the period of the suspension or revocation, unless the board determines upon substantial evidence that the member, officer, or director was not personally at fault and did not acquiesce in the matter on account of which the license was suspended or revoked.

(i) The action of the board in issuing or refusing to issue or in suspending or revoking any license shall be subject to review by the

Pulaski County Circuit Court upon filing of an action therefor within thirty (30) days after the issuance of written notice by the board of the action taken.

History. Acts 1989, No. 417, § 1; 1995, No. 827, § 4; 2011, No. 97, § 1; 2019, No. 315, §§ 1362, 1363; 2019, No. 990, § 22. The 2019 amendment by No. 990, in (b)(1), deleted “regulation” following “rule” and substituted “felony listed under § 17-3-102” for “felony or any offense involving moral turpitude”.

Amendments. The 2019 amendment by No. 315 deleted “regulation” following “rule” in (b)(1) and (b)(8).

17-19-212. Licenses.

Each applicant for an initial bail bondsman license who satisfactorily completes the examination and meets the other qualifications and requirements prescribed by law, including the completion of a minimum of eight (8) hours of education in subjects pertaining to the authority and responsibilities of a bail bondsman and a review of the laws and rules relating thereto, shall be licensed by the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.

History. Acts 1993, No. 499, § 1; 1997, No. 973, § 8; 1999, No. 567, § 3; 2019, No. 315, § 1364.

Amendments. The 2019 amendment substituted “rules” for “regulations”.

SUBCHAPTER 3 — BOND REQUIREMENTS — POSTING OF BONDSMEN LIST

SECTION.
17-19-301. Premiums.

Effective Dates. Acts 2019, No. 871, § 24: July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2019 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2019 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2019.”

17-19-301. Premiums.

(a) With the exception of other provisions of this section, the premium or compensation for giving bond or depositing money or property as bail on any bond shall be ten percent (10%), except that the amount may be rounded up to the nearest five-dollar amount.

(b) The minimum compensation for giving bond or depositing money or property as bail on any bond shall be not less than fifty dollars (\$50.00).

(c) If a bail bond or appearance bond issued by a licensee under this chapter must be replaced with another bail bond or appearance bond because of the licensee's violation of any provision of the laws of this state or any rule or order of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board, the licensee who violated the provision and who caused the replacement to be required shall pay all the premium amount for the replacement bond, in an amount not to exceed the amount of the original bond, without any contribution from the respective defendant or principal.

(d)(1)(A) In addition to the ten-percent bail or appearance bond premium or compensation allowed in subsection (a) of this section, and starting on July 1, 2013, each licensed professional bail bond company, sheriff, or keeper of the jail shall charge and collect as a nonrefundable administrative and regulatory fee for the board an additional ten dollars (\$10.00) per bond fee for giving bond for every bail and appearance bond issued by the licensed professional bail bond company by or through its individual licensees, sheriffs, or keepers of the jail.

(B) The administrative and regulatory fees payable by these companies to the Bail Bondsman Board Fund for the support and operation of the board, and collected by the bail bond companies, sheriffs, or keepers of the jail as required by this section, shall be reported and filed with the board no later than fifteen (15) calendar days after the end of each calendar quarter, contemporaneous with the professional bail bond company's filing of its quarterly bail bond report with the board.

(C) A notarized annual reconciliation of all fees collected in the preceding calendar year for the Bail Bondsman Board Fund shall be filed by each licensed professional bail bond company at a time and on forms prescribed by the board.

(D) The Executive Director of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board may grant an extension for good cause shown upon timely written request.

(E) The administrative and regulatory fees payable by the bail bond companies, sheriffs, or keepers of the jail to the Bail Bondsman Board Fund shall not exceed ten dollars (\$10.00) per bond, as required by this subchapter, exclusive of statutory licensure fees elsewhere in this chapter.

(F) Upon collection of the fees and any monetary penalties, the board shall deposit as special revenues:

(i) Sufficient fees and penalties directly into the Bail Bondsman Board Fund to provide for the personal services and operating expenses of the board under subsection (g) of this section; and

(ii) The remainder of all fees and penalties directly into the Domestic Peace Fund administered by the Arkansas Child Abuse/Rape/Domestic Violence Commission.

(2)(A) Absent an extension granted by the executive director for good cause to a company and in addition to any license suspension or revocation, the executive director may order after notice and a hearing a professional bail bond company failing timely to report or pay the regulatory fee to the Bail Bondsman Board Fund by and through the executive director shall be liable to the Bail Bondsman Board Fund for a monetary penalty of one hundred dollars (\$100) per day for each day of delinquency.

(B) The board may pursue any appropriate legal remedies on behalf of the Bail Bondsman Board Fund to collect any delinquent fees and penalties owed under this section as special revenues to the Bail Bondsman Board Fund.

(3) Upon collection of the regulatory fees and any monetary penalties payable to the Bail Bondsman Board Fund and assessed under this section, the executive director shall deposit all fees and penalties directly into the Bail Bondsman Board Fund as special revenues.

(4)(A) Upon failure of the bail bond company to remit the fees timely, the board may pursue civil legal remedies against the noncomplying bail bond company on behalf of the Bail Bondsman Board Fund to recover the balance of the fees and any penalties owed.

(B)(i) The board may also fine or suspend or revoke the license of any professional bail bond company failing to make a quarterly report or remit or pay timely the fees required by this section.

(ii) The board may promulgate rules for enforcement.

(5)(A) Other than sole proprietors licensed as professional bail bond companies, individual bail bondsmen are exempt from the duty of payment of the administrative and regulatory fees to the Bail Bondsman Board Fund, except that the individual licenses of individual employees of the professional bail bond company may be suspended or revoked by the board under the administrative procedures provided in this chapter if the individual licensee fails to comply with his or her duties in proper collection of the bail bond premiums earmarked for later payment to the Bail Bondsman Board Fund under this subsection, if he or she converts the moneys to his or her own use, or if he or she commits other infractions in regard to collection of such premium amounts.

(B) In those instances, the violations of the individual may in the board's discretion be attributed to the employing professional bail bond company for good cause shown, and the license of the employing professional bail bond company may be sanctioned by the executive director under the administrative procedures provided in this chapter.

(C) Further, upon criminal conviction of the individual bondsman for theft of property in connection with fraudulent conversion of those premium amounts due the Bail Bondsman Board Fund, the board shall revoke the individual's license and fine or suspend or revoke the license of the employing professional bail bond company if it assisted the individual in such fraudulent conduct.

(6)(A) For purposes of § 17-19-205 requiring the professional bail bond company's deposit of a letter of credit or certificate of deposit for the faithful performance of its duties, the company's payment of the administrative and regulatory fee required by this subsection is the duty of the licensee so as to allow the executive director to make a claim against the security deposit required in § 17-19-205 on behalf of the Bail Bondsman Board Fund for the balance of any owed and unpaid administrative and regulatory fees the professional bail bond company still owes to the Bail Bondsman Board Fund, and the executive director shall promptly make claims against security deposits on behalf of the Bail Bondsman Board Fund, up to the limit of the company's deposit for any remaining fee balance due, in the manner provided in this subchapter for any claim against the deposit required in this subchapter.

(B) Deposits held for the Bail Bondsman Board Fund, or fees or any moneys deposited into the Bail Bondsman Board Fund are not subject to any levy or assessment of any kind, including forfeiture claims, misconduct claims, or general creditor claims of the bail bond company, subject to garnishment or other creditors' remedies under Title 16 of this Code or other provisions of Arkansas law.

(e)(1) In addition to the premiums, compensation, and fees allowed in subsections (a) and (d) of this section, each sheriff, keeper of the jail, or bail bond company shall charge and collect twenty dollars (\$20.00) as a nonrefundable fee for the Arkansas Public Defender Commission.

(2) All fees collected shall be forwarded to the board for deposit into the Public Defender User Fee Fund.

(3)(A) The Arkansas Public Defender Commission shall deposit the money collected into the existing account within the State Central Services Fund entitled "Public Defender User Fees".

(B)(i) Three dollars (\$3.00) of each fee collected under this section shall be remitted to each county in the state to defray the operating expenses of each county's public defender office.

(ii) The Arkansas Public Defender Commission shall remit quarterly to each county treasurer the county's portion of the fee collected under this section using the formula for the County Aid Fund under § 19-5-602.

(4) The fees collected by the bail bond companies required under this subsection shall be reported and filed with the Arkansas Public Defender Commission quarterly.

(5) A notarized annual reconciliation of all fees collected in the preceding calendar year shall be filed by each bail bond company by February 15 on forms provided by the board.

(6) In addition to the bail or appearance bond premium or compensation allowed under this section and § 17-19-111, each licensed professional bail bond company, sheriff, or keeper of the jail shall charge and collect a processing fee of five dollars (\$5.00) on each bail bond in order to defray the surety's costs incurred by the quarterly and annual reports to the Arkansas Public Defender Commission and to

further defray the surety's costs incurred in the collection of all fees on behalf of the Arkansas Public Defender Commission.

(7) The board may pursue any appropriate legal remedy for the collection of any delinquent fees owed under this subsection.

(8) Upon collection of any fees and penalties, the board shall forward all fees and penalties to the Arkansas Public Defender Commission for deposit into the Public Defender User Fees Fund account within the State Central Services Fund.

(f)(1) In addition to the premiums, compensation, and fees allowed under this chapter, each professional bail bond company, sheriff, keeper of the jail, or person authorized to take bail under § 16-84-102 shall charge and collect as a nonrefundable administrative bail bond fee for the Arkansas Counties Alcohol and Drug Abuse and Crime Prevention Program Fund an additional fee of six dollars (\$6.00) per bail bond for giving bond for every bail bond issued by the professional bail bond company by or through its individual licensees, sheriffs, keepers of the jail, or any persons authorized to take bail under § 16-84-102.

(2) The fees and penalties collected under this subsection by a professional bail bond company, sheriff, keeper of the jail, or a person authorized to take bail under § 16-84-102 shall be forwarded to the board for deposit into the Arkansas Counties Alcohol and Drug Abuse and Crime Prevention Program Fund.

(3) The board shall deposit the money collected into the existing account within the Arkansas Counties Alcohol and Drug Abuse and Crime Prevention Program Fund to be used for the establishment and operation of alcohol abuse programs, drug abuse programs, crime prevention programs, and other related purposes in the counties.

(4) The fees required under this subsection and collected by the bail bond companies, sheriffs, keepers of the jail, or persons authorized to take bail under § 16-84-102 shall be reported quarterly and filed with the board.

(5)(A) Within fifteen (15) days after receiving the quarterly fees from the bail bond companies, sheriffs, keepers of the jail, or persons authorized to take bail under § 16-84-102, the board shall remit the fees collected under this subsection to the Arkansas Sheriffs' Association.

(B) The Arkansas Sheriffs' Association is the official organization of sheriffs in this state and is organized and exists under the Arkansas Nonprofit Corporation Act, §§ 4-28-201 — 4-28-206 and §§ 4-28-209 — 4-28-224.

(6) A notarized annual reconciliation of all fees collected in the preceding calendar year shall be filed on forms provided by the board by each professional bail bond company, sheriff, keeper of the jail, or person authorized to take bail under § 16-84-102 by February 15.

(7) The Department of Finance and Administration may pursue any appropriate legal remedy for the collection of delinquent fees and penalties owed under this subsection against an entity that has a duty to collect the fee under this subsection.

(8) The board shall promulgate rules to suspend, revoke, or take disciplinary action for noncompliance in failure to remit or pay fees under this section or in failure to report under this section.

(g)(1)(A) In addition to the premiums and fees allowed under this chapter, each professional bail bond company, sheriff, keeper of the jail, or person authorized to take bail under § 16-84-102 shall charge and collect an additional fee of four dollars (\$4.00) per bail bond for every bail bond issued by the professional bail bond company by or through its individual licensees, sheriffs, keepers of the jail, or any persons authorized to take bail under § 16-84-102.

(B) The administrative bail bond fee is nonrefundable and shall be deposited into the Bail Bond Recovery Fund.

(2) The fees and penalties collected under this subsection by the professional bail bond company, sheriff, keeper of the jail, or a person authorized to take bail under § 16-84-102 shall be forwarded to the board for deposit into the Bail Bond Recovery Fund.

(3)(A) The board shall deposit the money collected into the existing account within the Bail Bond Recovery Fund.

(B) Use of the funds from the Bail Bond Recovery Fund shall be for professional bail bond forfeitures.

(4) The fees collected by the bail bond company, sheriff, keeper of the jail, or a person authorized to take bail under § 16-84-102 required under this subsection shall be reported quarterly and filed with the board.

(5) A notarized annual reconciliation of all fees collected in the preceding calendar year shall be filed on forms provided by the board by each professional bail bond company, sheriff, keeper of the jail, or person authorized to take bail under § 16-84-102 by February 15.

(6) The board may pursue any appropriate legal remedy for the collection of delinquent fees and penalties owed under this subsection against an entity that has a duty under this subsection to collect the fee.

(7) The board shall promulgate rules to suspend, revoke, or take disciplinary action for noncompliance in failure to remit or pay fees under this section or for failure to report under this section.

(h) A sheriff, keeper of the jail, and any bail bond company shall collect fees as required under §§ 14-52-111, 17-19-111, 17-19-301, and 21-6-307 and other fees as required by law.

(i)(1) Unless specified otherwise under subsection (e) of this section, the moneys collected by each bail bond company under subsection (e) of this section shall be deposited into the State Treasury to the credit of the Public Defender User Fees Fund within the State Central Services Fund.

(2)(A) Of the fee collected by each licensed professional bail bond company, three dollars (\$3.00) shall be transferred to the various counties for the sole purpose of defraying the operating expenses of the local public defender's office.

(B) The remaining moneys collected shall be used to defray operating expenses of the Arkansas Public Defender Commission.

(3) On a quarterly basis, the Arkansas Public Defender Commission shall remit to each county its portion of the three dollars (\$3.00) per bail bond fee collected based upon the following formula:

(A) Seventy five percent (75%) of the bail bond fee collected shall be distributed equally to all seventy-five (75) counties; and

(B) The remaining twenty-five percent (25%) of the bail bond fee collected shall be distributed per capita.

History. Acts 1989, No. 417, § 1; 1993, No. 652, § 6; 1995, No. 827, § 6; 1997, No. 1000, §§ 12-14; 2003, No. 1778, § 1; 2005, No. 1956, § 1; 2007, No. 190, § 1; 2007, No. 730, §§ 2, 3; 2013, No. 1283, §§ 2, 3; 2019, No. 315, § 1365; 2019, No. 871, § 18.

Amendments. The 2019 amendment by No. 315 deleted “regulation” following “rule” in (c).

The 2019 amendment by No. 871 added (i).

CHAPTER 20

BARBERS

SUBCHAPTER.

2. BARBER LAW — STATE BOARD OF BARBER EXAMINERS.
3. BARBER LAW — REGISTRATION.
4. BARBER SCHOOLS AND POSTSECONDARY BARBER SCHOOLS.

SUBCHAPTER 2 — BARBER LAW — STATE BOARD OF BARBER EXAMINERS

SECTION.

- 17-20-201. Creation — Members.
- 17-20-203. Director of the State Board of Barber Examiners.

SECTION.

- 17-20-204. Personnel.
- 17-20-208. Fees.
- 17-20-209. Disposition of funds.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

17-20-201. Creation — Members.

(a)(1) There is created a State Board of Barber Examiners, consisting of the Secretary of the Department of Labor and Licensing, or his or her

designee, who shall be an ex officio member of the board, and five (5) members to be appointed by the Governor for a term of six (6) years.

(2) Three (3) of the members so appointed shall be practicing barbers who have followed the occupation of barbering in this state for at least five (5) years immediately before their appointment.

(3) One (1) member appointed by the Governor will be a public member to represent the consumer, and one (1) member appointed by the Governor to represent persons sixty-five (65) years of age and older. The two (2) members appointed under this subdivision (a)(3) shall not be actively engaged in or retired from the barbering profession. The two (2) positions may not be held by the same person. Both shall be full voting members but shall not participate in the grading of examinations.

(4) The five (5) members shall be appointed in such manner that two (2) of them shall reside in the geographical area north of I-40, two (2) shall reside in the geographical area south of I-40, and one (1) shall be appointed from the state at large.

(b)(1) Each member shall hold office until a successor is appointed and qualified.

(2) The Governor shall have the power to remove any member for gross incompetency, gross immorality, disability, any abuse of his or her official power, or other good cause and shall fill any vacancy thus occasioned by appointment within thirty (30) days after the vacancy occurs.

(3) Members appointed to fill vacancies caused by death, resignation, or removal shall serve only for the unexpired term of their predecessors.

(c) Each member of the board may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

History. Acts 1937, No. 313, §§ 15, 19; Pope's Dig., §§ 12083, 12087; Acts 1947, No. 125, § 3; 1951, No. 127, § 8; 1957, No. 278, § 2; 1961, No. 207, § 1; 1963, No. 102, § 1; 1967, No. 240, § 1; 1971, No. 126, § 1; 1975, No. 538, § 5; 1977, No. 113, §§ 1-3; 1981, No. 717, § 2; 1983, No. 131, §§ 1-3, 5; 1983, No. 135, §§ 1-3, 5; 1985, No. 133, § 2; A.S.A. 1947, §§ 6-617

— 6-619, 6-623 — 6-626, 71-515, 71-519; Acts 1989, No. 388, § 2; 1997, No. 250, § 127; 2017, No. 1060, § 5; 2019, No. 910, § 5410.

Amendments. The 2019 amendment substituted "Department of Labor and Licensing, or his or her designee" for "State Board of Health" in (a)(1).

17-20-203. Director of the State Board of Barber Examiners.

(a)(1) The State Board of Barber Examiners in consultation with the Secretary of the Department of Labor and Licensing may employ a Director of the State Board of Barber Examiners, who shall not be a member of the board and who shall have the responsibility of keeping:

(A) A record of the board's proceedings;

(B) A record of persons registered as barbers showing the name, place of business, and residence of each and the date and number of his or her certificate;

(C) A record of all certificates issued, refused, renewed, suspended, or revoked; and

(D) Such other records as may be directed by the board or required by law.

(2) The records shall be open to public inspection at all reasonable times.

(b) The director shall perform such other functions and duties as may be prescribed by law or directed by the secretary.

(c) The director shall receive such compensation for his or her services as may be prescribed by the secretary within the limitations of the biennial appropriation therefor made by the General Assembly.

History. Acts 1937, No. 313, §§ 16, 17; Pope's Dig., §§ 12084, 12085; Acts 1977, No. 524, § 1; A.S.A. 1947, §§ 71-516, 71-516.2, 71-517; Acts 2017, No. 1060, § 6; 2019, No. 910, § 5411.

Amendments. The 2019 amendment rewrote the section heading; substituted "in consultation with the Secretary of the Department of Labor and Licensing may employ a Director of the State Board of

Barber Examiners" for "is authorized to employ an executive secretary" in the introductory language of (a)(1); deleted "and apprentices" following "barbers" in (a)(1)(B); in (b), substituted "director" for "executive secretary" and "secretary" for "board"; and, in (c), substituted "director" for "Executive Secretary of the State Board of Barber Examiners" and "secretary" for "board".

17-20-204. Personnel.

The State Board of Barber Examiners is authorized to employ such other personnel as it deems necessary, and as is approved by the Secretary of the Department of Labor and Licensing, to carry out the provisions of this chapter, within such limits as may be provided by biennial appropriation of the General Assembly. All employees shall work under the direct supervision of the Director of the State Board of Barber Examiners.

History. Acts 1937, No. 313, § 19; Pope's Dig., § 12087; Acts 1947, No. 125, § 3; 1951, No. 127, § 8; 1957, No. 278, § 2; 1963, No. 102, § 1; 1967, No. 240, § 1; 1971, No. 126, § 1; 1975, No. 538, § 5; A.S.A. 1947, § 71-519; Acts 2017, No. 1060, § 7; 2019, No. 910, § 5412.

Amendments. The 2019 amendment

inserted "and as is approved by the Secretary of the Department of Labor and Licensing" in the first sentence and substituted "Director of the State Board of Barber Examiners" for "Executive Secretary of the State Board of Barber Examiners" in the second sentence.

17-20-208. Fees.

(a) The State Board of Barber Examiners shall by rule establish reasonable registration fees, renewal fees, examination fees, and such other fees as it deems necessary and appropriate to fulfill its duties.

(b) Funds thus realized shall be expended for:

(1) The payment of the salary of the Director of the State Board of Barber Examiners;

(2) Expenses and stipends in accordance with § 25-16-901 et seq.;

(3) Salary of registered barber inspectors and stenographers;

- (4) Retainer fees for attorneys;
- (5) Publication of this chapter;
- (6) Investigation of violations of this chapter; and
- (7) Such other purposes as may be directed by the board.

History. Acts 1937, No. 313, § 10; Pope's Dig., § 12078; Acts 1947, No. 125, § 2; 1951, No. 127, § 5; 1957, No. 278, § 1; 1975, No. 538, § 1; 1981, No. 103, § 1; 1985, No. 137, § 1; A.S.A. 1947, § 71-510; Acts 1989, No. 388, § 4; 1995, No. 749, §§ 1, 4; 1997, No. 250, § 128; 2017, No. 1060, § 10; 2019, No. 910, § 5413.

Amendments. The 2019 amendment substituted "Director of the State Board of Barber Examiners" for "Executive Secretary of the State Board of Barber Examiners" in (b)(1).

17-20-209. Disposition of funds.

(a)(1) All moneys received by the State Board of Barber Examiners under this chapter shall be paid to the Director of the State Board of Barber Examiners, who shall give a proper receipt for those moneys to the Auditor of State the total amount received by him or her from all sources under this chapter.

(2) The director shall at the same time deposit the entire amount of such receipts with the Treasurer of State, who shall place them to the credit of a special fund to be created and known as the "State Board of Barber Examiners Fund".

(b)(1) By the Chair of the State Board of Barber Examiners and the director, the board shall from time to time certify to the Auditor of State the necessary expenses incurred by the board, including expense reimbursement and stipends as provided in § 25-16-901 et seq. The Auditor of State shall issue his or her warrant for the expenses, which shall be paid out of the funds so established for the maintenance of the board.

(2) No order shall be drawn by the Auditor of State on any fund other than the State Board of Barber Examiners Fund for any stipends or expenses of the board incident to the administration of this chapter.

(c) All funds so paid to the Treasurer of State shall remain and be a separate and permanent fund for the maintenance of the board and the administration of this chapter.

History. Acts 1937, No. 313, § 18; Pope's Dig., § 12086; A.S.A. 1947, § 71-518; Acts 1987, No. 563, § 4; 1997, No. 250, § 129; 2017, No. 1060, § 11; 2019, No. 910, § 5414.

Amendments. The 2019 amendment

substituted "Director of the State Board of Barber Examiners" for "Executive Secretary of the State Board of Barber Examiners" in (a)(1); and substituted "director" for "executive secretary" in (a)(2) and (b)(1).

SUBCHAPTER 3 — BARBER LAW — REGISTRATION

SECTION.

17-20-302. Qualifications of applicants.

17-20-308. Grounds for disciplinary action.

17-20-302. Qualifications of applicants.

Any person shall be qualified to receive a certificate of registration to practice as a registered barber who:

- (1) Is qualified under this chapter;
- (2) Has passed a satisfactory examination conducted by the State Board of Barber Examiners to determine his or her fitness to practice barbering;
- (3) Is at least sixteen and one-half (16½) years of age; and
- (4) Has received training approved by the appropriate licensing authorities.

History. Acts 1937, No. 313, §§ 4, 5; § 2; 2017, No. 1060, § 13; 2019, No. 990, Pope's Dig., §§ 12072, 12073; Acts 1947, § 23.
No. 125, § 1; 1951, No. 127, § 2; 1985, No. 133, § 1; A.S.A. 1947, §§ 71-504, 71-505; **Amendments.** The 2019 amendment deleted former (2) and redesignated the remaining subdivisions accordingly.
Acts 1989, No. 388, § 6; 1995, No. 749,

17-20-308. Grounds for disciplinary action.

The State Board of Barber Examiners may refuse to issue or renew or may suspend or revoke any certificate of registration, take other appropriate disciplinary action, and impose a civil penalty as provided in § 17-20-310 for any of the following:

- (1)(A) Conviction of a felony listed under § 17-3-102 shown by a certified copy of the record of the court of conviction.
- (B) In accordance with § 5-14-129, the board shall refuse to issue or renew a certificate of registration or shall suspend or revoke a certificate of registration for a barber who is a registered sex offender.
- (C) It is unlawful for a sex offender who is required to register under the Sex Offender Registration Act of 1997, § 12-12-901 et seq., and who has been assessed as a Level 3 or Level 4 offender to knowingly engage in an occupation or participate in a volunteer position that requires the sex offender to work or interact primarily and directly with a child under sixteen (16) years of age.
- (D) A violation of this section is a Class D felony;
- (2) Malpractice or gross incompetency;
- (3) Affliction of the applicant, registered barber, or registered apprentice barber with an infectious or communicable disease;
- (4) Advertising by means of knowingly false or deceptive statements;
- (5) Advertising, practicing, or attempting to practice under a trade name or name other than one's own;
- (6) Habitual drunkenness or habitual addiction to the use of morphine, cocaine, or other habit-forming drugs;
- (7) Immoral or unprofessional conduct;
- (8) The violation of any of the sanitary rules promulgated by either the board or the Department of Health for the regulation of barbershops and barber schools; or
- (9) Continuing employment in a barbershop wherein the sanitary rules of the board or the department promulgated for the regulation of

barbershops or barber schools are known by the registered barber or registered apprentice to be violated.

History. Acts 1937, No. 313, § 12; Pope's Dig., § 12080; A.S.A. 1947, § 71-512; Acts 1993, No. 1056, § 4; 2017, No. 1060, § 17; 2019, No. 315, § 1366; 2019, No. 990, § 24.

Amendments. The 2019 amendment by No. 315 substituted "rules" for "regulations" in (8) and (9).

The 2019 amendment by No. 990 inserted "listed under § 17-3-102" in (1)(A).

SUBCHAPTER 4 — BARBER SCHOOLS AND POSTSECONDARY BARBER SCHOOLS

SECTION.

17-20-407. Curriculum.

17-20-409. Fees.

17-20-410. Revocation or suspension of certificate.

SECTION.

17-20-423. Sanitary rules.

17-20-424. Inspection of student work.

17-20-407. Curriculum.

(a) A school or college of barbering shall not be approved by the State Board of Barber Examiners and a license shall not be issued to operate or conduct any school or college of barbering until the applicant demonstrates to the board that it is fully qualified to thoroughly educate and instruct students in all subjects necessary and required to qualify them as competent barbers.

(b) A school of barbering shall not be approved by the board unless it:

- (1) Meets the admission requirements under this subchapter; and
- (2)(A) Requires as a prerequisite to graduation a course of instruction and practice of not fewer than five hundred fifty (550) hours for licensed cosmetologists, and for all other students not less than one thousand five hundred (1,500) hours of continuous study and practice of not more than eight (8) hours in any one (1) day, five (5) days a week, within a period of not fewer than nine (9) months from the date of enrollment.

(B) The course of instruction shall include the following subjects, with the curriculum hours as specified in the rules and procedures of the board:

- (i) Scientific fundamentals for barbering;
- (ii) Physiology;
- (iii) Hygiene;
- (iv) Elementary chemistry relating to sterilization and antiseptics;
- (v) Massaging and manipulating the muscles of the face, neck, and scalp;
- (vi) Hair cutting;
- (vii) Bobbing;
- (viii) Waving;
- (ix) Shaving;
- (x) Beard trimming; and
- (xi) Chemical services.

(c) Each barber college shall abide by the following guidelines:

(1) Conduct a course of study and training which shall consist of not fewer than five hundred fifty (550) hours for students who are licensed cosmetologists, and as to all other students not fewer than one thousand five hundred (1,500) clock hours. The average daily schedule of each student shall consist of the following:

- (A) One and one-fourth (1¼) clock hours of theoretical study in a classroom;
 - (B) One and one-fourth (1¼) clock hours of scientific barber practice in a classroom other than general clinic; and
 - (C) Five (5) clock hours of general barber practice. Each barber college shall average five (5) services per day per student;
- (2) Teach no fewer than one-third (⅓) of its total enrollment scientific barbering practice, theory, or general barber practice at one (1) time;
- (3) Post a daily schedule of its course of study in its general clinic where it can be easily read by all students; and
- (4) Require a maximum attendance in all subjects. A student shall not be permitted to spend more than eight (8) hours in the college in any one (1) day.

(d) The board shall promulgate rules that distinguish between a secondary and a postsecondary education curriculum.

(e) The curriculum described in this section may be completed through supervisory learning in a classroom, online, or on a distance education platform for up to fifty percent (50%) of the student’s training program as authorized by the United States Department of Education as existed on January 1, 2021.

History. Acts 1961, No. 109, §§ 3, 8, 12; A.S.A. 1947, §§ 71-525, 71-530, 71-534; Acts 1989, No. 388, § 11; 2013, No. 1417, § 2; 2017, No. 1060, § 25; 2021, No. 724, § 1.

Amendments. The 2021 amendment added (e).

17-20-409. Fees.

(a) No school or college of barbering shall be approved by the State Board of Barber Examiners and no license shall be issued to operate or conduct any school or college of barbering until the applicant pays the initial license fee of five hundred dollars (\$500). Thereafter the school or college shall pay an annual renewal fee of one hundred fifty dollars (\$150).

- (b) Other fees applicable to barber schools or colleges are:
- (1) Teacher manager instructor examination \$80.00
 - (2) Teacher manager instructor license 40.00
 - (3) Restoration of a teacher manager instructor license 48.00.

History. Acts 1961, No. 109, §§ 5, 10; 1975, No. 538, §§ 2-4; 1981, No. 103, § 3; 1985, No. 137, §§ 2, 3; A.S.A. 1947, §§ 71-527, 71-532; 2019, No. 386, § 4.

Amendments. The 2019 amendment substituted “Teacher manager instructor” for “Teacher, manager, or instructor” in (b)(1) and (b)(2); and substituted “teacher

manager instructor” for “teacher, manager, or instructor” in (b)(3).

17-20-410. Revocation or suspension of certificate.

The State Board of Barber Examiners may revoke or suspend any certificate of school license or registration upon finding that the school or college fails to comply with the provisions of this subchapter or with the rules prescribed by the board.

History. Acts 1961, No. 109, § 6; A.S.A. 1947, § 71-528; Acts 2019, No. 315, § 1367.

Amendments. The 2019 amendment deleted “and regulations” following “rules”.

17-20-423. Sanitary rules.

Each barber college shall furnish each student upon enrollment a copy of the rules governing sanitary conditions of barber shops of this state as registered with the Secretary of State.

History. Acts 1961, No. 109, § 12; A.S.A. 1947, § 71-534; Acts 2019, No. 315, § 1368.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in the section heading and text.

17-20-424. Inspection of student work.

(a) Each barber college shall require that a patron not be released from a chair after being served by a student until all the work performed by the student has been thoroughly inspected and approved by a teacher manager instructor.

(b) In each licensed school of barbering:

(1) A student shall not engage in any work upon a client until he or she has had the required number of hours of instruction;

(2) A school shall not advertise student work to the public through any medium unless the work is designated as student work; and

(3) A school may allow a student to volunteer in charity or special events held outside the school if the following conditions are met:

(A) The student agrees to participate;

(B) The student is accompanied by and acts under the direct supervision of a licensed instructor; and

(C) The school maintains the required student-to-teacher ratios.

History. Acts 1961, No. 109, § 12; A.S.A. 1947, § 71-534; Acts 2017, No. 1060, § 30; 2019, No. 386, § 5.

Amendments. The 2019 amendment, in (a), deleted “shall” following “patron” and added “manager instructor”.

CHAPTER 21

BEAUTY PAGEANTS

SUBCHAPTER.

1. GENERAL PROVISIONS.

SUBCHAPTER

2. REGISTRATION.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

17-21-101. Definitions.

17-21-103. Rules.

Effective Dates. Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

17-21-101. Definitions.

As used in this chapter, unless the context otherwise requires:

(1)(A) "Beauty pageant" means any contest or competition in which entrants are judged on the basis of physical beauty, skill, talent, poise, and personality and in which a winner or winners, are selected as representing an ideal in one (1) or more of these areas.

(B) "Beauty pageant" shall not include any such contest or competition in which no application fee or entrance charge is made for contestants, to which no admission charge is made for attendance, and in connection with which no tickets or chances are sold;

(2) "Bond" means a surety bond with power of attorney attached and which names the Arkansas resident agent for the surety company;

(3) "Entrant's fee" means any payment of money or other thing of value, including, but not limited to, the selling of advertisements or tickets, or the obtaining of sponsors, which activity is a precondition to participation in a beauty pageant; and

(4) "Operator" means any person, franchisee, firm or corporation, civic group, or elementary or secondary educational institution that promotes, organizes or otherwise operates, a beauty pageant, participation in which is limited to persons paying an entrant's fee.

History. Acts 1991, No. 101, § 1; 2019, No. 386, § 6; 2019, No. 910, § 3419.

Amendments. The 2019 amendment by No. 386 deleted former (3).

The 2019 amendment by No. 910 deleted former (3).

17-21-103. Rules.

The Secretary of the Department of Finance and Administration may adopt rules to administer the provisions of this chapter. The rules shall be adopted in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 1991, No. 101, § 4; 2019, No. 315, § 1369; 2019, No. 910, § 3420.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in the section heading and twice in the text.

The 2019 amendment by No. 910 substituted “Secretary of the Department of Finance and Administration” for “Director of the Department of Finance and Administration”.

SUBCHAPTER 2 — REGISTRATION

SECTION.

17-21-201. Registration of operators — Renewal — Fee.

17-21-202. Bond.

SECTION.

17-21-205. Denial, suspension, revocation of registration.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

17-21-201. Registration of operators — Renewal — Fee.

(a) No person shall conduct a beauty pageant in Arkansas unless registered with the Secretary of the Department of Finance and Administration on forms prescribed by him or her. Registration in another state as a beauty pageant operator shall not be effective in this state.

(b) The registration form shall contain, but shall not be limited to, the following information:

- (1) Name, address, and telephone number of the operator;
- (2) Name, address, and telephone number of the individual or officer of the organization having full responsibility for the conducting of the pageant;
- (3) Names of pageants customarily promoted by the operator; and
- (4) Name, address, and telephone number of the financial institution in which the entrant’s fee is held.

(c)(1) In order to continue to hold a valid registration in a subsequent year, each operator shall annually renew his or her registration.

(2) Each registration shall expire on December 31 of each year.

History. Acts 1991, No. 101, § 2; 1993, No. 344, §§ 3, 4; 2019, No. 910, § 3421.

Amendments. The 2019 amendment substituted "Secretary of the Department

of Finance and Administration" for "Director of the Department of Finance and Administration" in the first sentence of (a).

17-21-202. Bond.

(a) Except as provided in § 17-21-203, each operator shall, at the time of registration, file and have approved by the Secretary of the Department of Finance and Administration, a bond in which the candidate for registration shall be the principal obligor in the sum of ten thousand dollars (\$10,000).

(b) The bond shall be payable to the State of Arkansas for the use of the secretary and any person who may have a cause of action against the obligor of the bond for any losses caused by a failure to conduct a beauty pageant.

History. Acts 1991, No. 101, § 2; 2019, No. 910, § 3422.

Amendments. The 2019 amendment substituted "Secretary of the Department

of Finance and Administration" for "Director of the Department of Finance and Administration" in (a); and substituted "secretary" for "director" in (b).

17-21-205. Denial, suspension, revocation of registration.

The Secretary of the Department of Finance and Administration may deny, suspend, or revoke a registration for:

(1) A violation of any of the provisions of this chapter; or

(2) The making of a false statement on the registration application form.

History. Acts 1991, No. 101, § 4; 2019, No. 910, § 3423.

Amendments. The 2019 amendment substituted "Secretary of the Department

of Finance and Administration" for "Director of the Department of Finance and Administration" in the introductory language.

CHAPTER 22

BOXING, WRESTLING, ETC.

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. STATE ATHLETIC COMMISSION.
3. LICENSING.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

17-22-101. Definitions.

17-22-101. Definitions.

As used in this chapter:

- (1) "Amateur" means a person who has never received nor competed for any purse or other compensation in an amount that exceeds the sum established by the State Athletic Commission in its rules for:
 - (A) Expenses of training; or
 - (B) Participating in a combative sports contest or exhibition;
- (2) "Boxing" means to compete with the fists;
- (3)(A) "Combative sports" means boxing, kick boxing, wrestling, martial arts, Muay Thai, or any combination thereof, or any form of hand-to-hand, elbow-and-foot, or foot-and-leg competition in which:
 - (i) A blow is struck which may reasonably be expected to inflict injury; or
 - (ii) A surface for fighting is used that may reasonably be expected to inflict injury.
- (B) "Combative sports" does not include student training or an exhibition of a student's skill when:
 - (i) Conducted by a martial arts school or an association of martial arts schools;
 - (ii) The student's participation is for health and recreational purposes rather than competition;
 - (iii) The intent is to use only partial contact; and
 - (iv) The scoring technique is based only on points.
- (C) "Combative sports" does not include professional wrestling;
- (4) "Exhibition" means any engagement in which the participants show or display their skills without necessarily striving to win;
- (5) "Kick boxing" means any form of boxing in which blows are delivered with the hand and any part of the leg below the hip, including the foot;
- (6) "Manager" means any person who directly or indirectly controls or administers the combative sports affairs of any professional participant of the same;
- (7) "Martial arts" or "mixed martial arts" means any discipline in which the participants utilize kicks, punches, blows, strikes, or other techniques, including without limitation any form of judo, kung fu, karate, and tae kwon do, ju jitsu, or any combination thereof;
- (8) "Match" means any engagement in which the participants show or display their skills while striving in good faith to win;
- (9) "Person" means any individual, partnership, corporation, association, or club;
- (10) "Professional" means an individual who is eighteen (18) years of age or older and who, as a means of obtaining pecuniary gain:
 - (A) Competes for money, prizes, or purses in combative sports contests or exhibitions; or
 - (B) Teaches, instructs, or assists in the practice of professional combative sports;

(11) "Professional wrestling" means an event or form of combat between two (2) or more participants, whether the outcome is predetermined or not, in which a participant:

(A) Delivers or appears to deliver blows to his or her opponent's body;

(B) Executes throws to his or her opponent's body; or

(C) Applies holds to his or her opponent's body;

(12) "Promoter" means any person, club, organization, corporation, or association, and in the case of a corporate promoter includes any officer, director, employee, or stockholder thereof who produces, arranges, or stages any professional boxing, kick boxing, wrestling, or martial arts match or exhibition; and

(13) "Wrestling" means any form of combat between two (2) or more participants in which a participant delivers blows to his or her opponent's body, executes throws to his or her opponent's body, or applies holds to his or her opponent's body.

History. Acts 1999, No. 1085, § 1; 2009, No. 781, § 1; 2013, No. 1096, § 1; 2017, No. 252, § 2; 2019, No. 386, § 7; 2019, No. 923, § 1.

Amendments. The 2019 amendment by No. 386 deleted former (4).

The 2019 amendment by No. 923 added (3)(C).

SUBCHAPTER 2 — STATE ATHLETIC COMMISSION

SECTION.

17-22-201. Creation — Members.

17-22-203. Director of the State Athletic Commission.

17-22-204. Authority.

SECTION.

17-22-206. Combative sports.

17-22-207. Civil penalties.

17-22-209. [Repealed.]

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

17-22-201. Creation — Members.

(a) A State Athletic Commission is created, which shall consist of seven (7) members who shall be at least twenty-five (25) years of age.

(b)(1) Members shall be appointed by the Governor for a term of two (2) years.

(2) One (1) of the members of the commission shall be a member of any patriotic organization chartered by authority of a special act of the United States Congress.

(3) One (1) member shall be a representative of the field of physical education.

(4) One (1) member shall be a representative of the field of sports promotion.

(5) One (1) member shall be a consumer representative.

(6) Two (2) members may be citizens at large but shall have experience with combative sports.

(7) One (1) member shall be a representative of the field of medicine and have experience with combative sports.

(8)(A) Furthermore, one (1) of the seven (7) members of the commission shall be a member of a minority race.

(B) One (1) of the seven (7) members shall be a senior citizen.

(C) Four (4) of the seven (7) members shall have experience with combative sports.

(c) The members of the commission shall serve without pay except for a stipend provided for by Arkansas law.

(d) The members of the commission shall have authority to promulgate such rules as are necessary for the operation and enforcement of this chapter and not in conflict with this chapter.

(e) The members of the commission may receive expense reimbursement in accordance with § 25-16-901 et seq.

(f) When any member of the commission shall cease to be a member of the state executive committee of any such patriotic organization as herein mentioned, his or her commission as a member of the commission shall automatically expire. The Governor shall appoint a successor, whose qualifications shall be as prescribed in this section.

History. Acts 1927, No. 131, §§ 2, 3; Pope's Dig., § 12062; Acts 1985, No. 970, § 2; A.S.A. 1947, §§ 84-2903, 84-2904; Acts 1991, No. 1188, § 1; 1997, No. 250, § 130; 2009, No. 781, § 2; 2013, No. 1096, § 2; 2019, No. 315, § 1370; 2019, No. 923, § 2.

Amendments. The 2019 amendment by No. 315 deleted "and regulations" following "rules" in (d).

The 2019 amendment by No. 923 deleted "the state executive committee of" preceding "any" in (b)(2).

17-22-203. Director of the State Athletic Commission.

(a) The State Athletic Commission in consultation with the Secretary of the Department of Labor and Licensing may employ a Director of the State Athletic Commission and fix the salary thereof at a sum not to exceed the maximum annual salary prescribed for such a position in the biennial appropriation for the Department of Labor and Licensing.

(b) The director shall:

(1) Keep in the office of the commission a full, complete, and up-to-date record of all the proceedings of the commission;

(2) Keep an up-to-date account of all money received by him or her on behalf of the commission; and

(3) Perform such other duties as shall be prescribed by the secretary.

History. Acts 1927, No. 131, §§ 3, 5; Pope's Dig., §§ 12063, 12065; Acts 1985, No. 970, § 2; A.S.A. 1947, §§ 84-2904, 84-2906; Acts 2019, No. 910, § 5415.

Amendments. The 2019 amendment substituted "Director of the State Athletic

Commission" for "Secretary" in the section heading; rewrote (a); substituted "director" for "secretary" in the introductory language of (b); and substituted "secretary" for "commission" in (b)(3).

17-22-204. Authority.

(a)(1)(A) The State Athletic Commission shall have the sole discretion, management, control, and jurisdiction over all combative sports matches and exhibitions in this state.

(B)(i) The commission shall adopt uniform policies, fees, and forms to ensure fair regulation of the combative sports industry.

(ii) The commission shall have no authority over professional wrestling events.

(2) A combative sports match or exhibition declared to be amateur and self-regulated shall be governed by the commission unless sanctioned by:

(A) A federally recognized sanctioning body approved in writing by the commission; and

(B) A national oversight body with 26 U.S.C. § 501(c)(3) status under the Internal Revenue Code of 1986 operating in at least six (6) states approved in writing by the commission.

(b)(1) The commission shall have the authority to appoint and pay inspectors and other officials necessary to properly conduct any match or exhibition authorized by this chapter.

(2) The inspectors and other officials may receive reimbursement for travel under § 25-16-901 et seq.

(c) The commission shall have the authority to adopt and promulgate, amend, or abrogate any and all rules considered by it necessary or expedient for the performance of its functions as provided in this chapter and in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(d) The commission may issue subpoenas, examine witnesses, and administer oaths and shall, at its discretion, investigate allegations or practices violating the provisions of this chapter.

(e) The commission shall have the authority to hire an investigator for the purposes outlined in this section.

(f) The commission shall have the authority to require event permits and insurance for combative sports with limits to be adjusted by the rules of the commission.

(g) The commission shall have the authority to make a claim on the bond or check posted by a promoter for combative sports events in order to make reimbursements for any unpaid fees, prize money, or other financial commitments of the promoter related to combative sports activity licensed by the commission.

(h) The commission shall have the authority to specify the forms required under this chapter.

History. Acts 1927, No. 131, § 3; Pope's Dig., § 12063; Acts 1985, No. 970, § 2; A.S.A. 1947, § 84-2904; Acts 1993, No. 1277, § 1; 1999, No. 1085, § 2; 2009, No. 781, § 3; 2013, No. 1096, § 4; 2017, No. 860, § 1; 2019, No. 315, §§ 1371, 1372; 2019, No. 386, § 8; 2019, No. 923, § 3.

Amendments. The 2019 amendment

by No. 315 deleted "and regulations" following "rules" in (c) and (f).

The 2019 amendment by No. 386 substituted "or" for "and" in the introductory language of (a)(2).

The 2019 amendment by No. 923 rewrote (a)(1).

17-22-206. Combative sports.

The General Assembly finds and declares to be the public policy of this state that it is in the best interest of the public and combative sports that combative sports be subject to an effective and efficient system of strict control and rule in order to protect the safety and well-being of the participants in combative sports matches and exhibitions and to promote the public confidence in the regulatory process and the conduct of combative sports matches and exhibitions. To further such public confidence and trust, the State Athletic Commission shall have the authority to adopt and promulgate, amend, or abrogate any and all rules concerning combative sports, to recover inspector and investigator fees, and recover the actual cost of the national and federal fighter database fees charged to the commission.

History. Acts 1999, No. 1085, § 3; 2009, No. 781, § 4; 2013, No. 1096, § 5; 2019, No. 315, § 1373.

Amendments. The 2019 amendment

substituted "rule" for "regulation" in the first sentence and deleted "and regulations" following "rules" in the second sentence.

17-22-207. Civil penalties.

(a) Any person who, after notice and hearing, is found by the State Athletic Commission to have violated any provision of this chapter or any rules of the commission may be assessed a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation.

(b) The penalty provided for in this section plus interest at ten percent (10%) per annum shall be paid to the commission before the penalized person can be issued a license by the commission.

(c) The commission shall have the authority to file suit in the Pulaski County Circuit Court or the circuit court of the county in which the person resides to obtain a judgment for the amount of any penalty not paid within thirty (30) days of service on the person of the order assessing the penalty, unless the circuit court enters a stay pursuant to the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 1999, No. 1085, § 3; 2009, No. 781, § 5; 2019, No. 315, § 1374. deleted “or regulations” following “rules” in (a).
Amendments. The 2019 amendment

17-22-209. [Repealed.]

Publisher’s Notes. This section, concerning transfer of the State Athletic Commission, was repealed by Acts 2019, No. 910, § 5416, effective July 1, 2019. The section was derived from Acts 2013, No. 482, § 2.

SUBCHAPTER 3 — LICENSING

SECTION.

17-22-301. Authorized matches and exhibitions.

SECTION.

17-22-306. Fees.

17-22-301. Authorized matches and exhibitions.

(a) All combative sports matches or exhibitions in this state are subject to the requirements of this chapter and the rules of the State Athletic Commission unless exempted by § 17-22-204(a) or § 17-22-101(3)(B).

(b) All matches or exhibitions as provided in subsection (a) of this section shall be conducted only in accordance with the provisions of this chapter and acts amendatory or supplemental hereto and in accordance with the rules of the commission.

History. Acts 1927, No. 131, § 1; Pope’s Dig., § 12061; Acts 1965, No. 463, § 1; 1985, No. 970, §§ 1, 4; A.S.A. 1947, §§ 84-2902, 84-2911; Acts 1987, No. 659, §§ 2, 4; 1989, No. 596, § 1; 1999, No. 1085, § 4; 2009, No. 781, § 7; 2019, No. 315, § 1375.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (a) and (b).

17-22-306. Fees.

(a)(1) Within five (5) business days after a combative sports match or exhibition, the licensed manager, promoter, or person responsible for the match or exhibition shall furnish to the State Athletic Commission a written report under the penalty of perjury on a form that shall be provided by the commission showing the number of tickets that were issued or sold and the gross receipts therefor without any deductions whatsoever.

(2)(A) The person shall also pay to the commission at the same time a five-percent fee of the total gross receipts received from admission charges for each exhibition held under the authority of this chapter.

(B) The five percent (5%) shall be computed using gross gate receipts, unless the venue collects and remits sales tax for the promoter.

(C) If the venue collects and remits sales tax for the promoter, the five percent (5%) shall be computed on the net gate receipts after sales tax.

(D)(i) If a promoter allows admission to a match or exhibition in return for a payment other than the cash purchase of tickets, the commission shall:

(a) Determine the method to be used to calculate the five-percent value of the gate receipts; or

(b) Set a reasonable price per person to be paid by the promoter to the commission.

(ii) If the promoter requests a decision from the commission regarding the payment under this section before the match or exhibition, the commission shall make the determination and notify the promoter of the determination before the match or exhibition.

(3)(A) The promoter shall pay the cost of an event inspector or investigator present at the event.

(B) Except as provided under subdivision (a)(3)(D) of this section, the cost of the event inspector or investigator shall not exceed one hundred twenty-five dollars (\$125) per day for each inspector or investigator.

(C) The commission shall:

(i) Determine if there is a need to appoint an inspector or investigator at an event;

(ii) Determine the number of inspectors or investigators to be appointed for the event; and

(iii) Notify the promoter in writing before the event of:

(a) The number of inspectors or investigators to be appointed;

(b) The cost of the inspectors or investigators; and

(c) The reasons for the appointment.

(D) [Repealed.]

(b)(1)(A) The commission may designate a representative to be present and to observe the computation of the number of tickets issued or sold and the determination of the gross receipts.

(B) All events shall utilize tickets for admission.

(2)(A) When the tickets are sold through an electronic ticket system, the commission may accept a computerized certification of tickets sold and a statement from the venue.

(B) The statement from the venue shall be signed by an arena representative and the promoter.

History. Acts 1987, No. 659, § 5; 1999, No. 1085, § 9; 2001, No. 536, § 1; 2009, No. 781, § 7; 2013, No. 1096, § 10; 2017, No. 860, § 3; 2019, No. 923, § 4.

Amendments. The 2019 amendment repealed (a)(3)(D).

CHAPTER 24

COLLECTION AGENCIES

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. STATE BOARD OF COLLECTION AGENCIES.
3. LICENSING.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

17-24-102. Exemptions.

17-24-105. Remedies.

17-24-102. Exemptions.

(a) This chapter does not apply to:

(1) Regular employees of a single creditor;

(2) Banks;

(3) Trust companies;

(4) Savings and loan associations;

(5) Abstract companies doing an escrow business;

(6) Licensed real estate brokers and agents when the claims or accounts being handled by the broker or agent are related to or in connection with the broker's or agent's regular real estate business;

(7) Express and telegraph companies subject to public regulation and supervision;

(8) Attorneys at law who use their own names or the names of their law firms to collect or attempt to collect claims, accounts, bills, or other forms of indebtedness owed to them individually or as a firm;

(9)(A) Persons, firms, corporations, associations, limited liability corporations, or partnerships handling claims, accounts, or collections under an order of any court.

(B) However, child support collection agencies not operating pursuant to Title IV-D of the Social Security Act are not exempt from this chapter and shall be subject to licensure; and

(10) Any person, firm, corporation, association, limited liability corporation, or partnership that, for a valuable consideration, purchases accounts, claims, or demands of another that were not in default or delinquent at the time of acquisition and then in the purchaser's own name proceeds to assert or collect the accounts, claims, or demands.

(b) Nothing in § 17-24-301, § 17-24-309, § 17-24-401, or this subchapter with respect to licensure by the State Board of Collection Agencies or limitations of fees for collection services shall include or be applicable to attorneys at law licensed to practice in the State of Arkansas who are engaged in rendering legal services for clients in the collection of accounts, debts, or claims, nor shall § 17-24-301, § 17-24-309, § 17-24-401, or this subchapter amend or repeal in any way the exemptions set out in subsection (a) of this section.

(c)(1) Nothing in this chapter shall include or be applicable to the foreclosure of real property under the provisions of § 18-49-101 et seq. or § 18-50-101 et seq.

(2) Foreclosure of real property is not deemed to be debt collection as defined in the federal Fair Debt Collections Practices Act, 15 U.S.C. § 1692a(6), as in existence on January 1, 2005.

History. Acts 1965, No. 145, § 9; 1969, No. 214, § 2; A.S.A. 1947, §§ 71-2009, 71-2011; Acts 1993, No. 1245, § 1; 1997, No. 246, § 1; 2005, No. 1882, § 1; 2009, No. 1455, § 3; 2019, No. 386, § 9.

Amendments. The 2019 amendment substituted “subchapter” for “chapter” twice in (b).

17-24-105. Remedies.

When any person, partnership, corporation, or association engages in the business activities of a collection agency without a valid license issued under this chapter or has had the license revoked, suspended, or refused, in accordance with the provisions of this chapter, the State Board of Collection Agencies may petition the circuit court in the jurisdiction in which the collection activity has occurred and, upon affidavit, secure a writ of injunction, without bond, restraining and prohibiting the person, partnership, corporation, or association from operating the collection agency.

History. Acts 1993, No. 1245, § 3; 2019, No. 386, § 10.

Amendments. The 2019 amendment substituted “under” for “pursuant to”, sub-

stituted “chapter” for “subchapter”, and substituted “Agencies may” for “Agencies shall have the right to”.

SUBCHAPTER 2 — STATE BOARD OF COLLECTION AGENCIES

SECTION.

17-24-201. Creation — Members.

17-24-203. Rules.

17-24-201. Creation — Members.

(a)(1) There is created a State Board of Collection Agencies composed of five (5) members to be appointed by the Governor.

(2) The members shall serve three-year terms without compensation except they may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

(b)(1)(A) One (1) member shall be appointed by the Governor after consulting the Associated Credit Bureaus of Arkansas, Inc., subject to confirmation by the Senate, and another shall be appointed by the Governor after consulting with the Arkansas Collectors Association, Inc. and subject to confirmation by the Senate.

(B) The persons appointed under subdivision (b)(1)(A) of this section shall:

(i) Be actively engaged as the owners or managers of a collection agency or someone employed by collection agencies in an executive capacity; and

(ii) Have been actively engaged in connection with the operation of a collection agency for five (5) years next preceding their appointment.

(2) One (1) member, who shall not be a member of either such association, shall be selected from the public at large.

(3)(A) One (1) member shall represent the elderly and shall be sixty (60) years of age or older.

(B) This member shall not be actively engaged in or retired from the operation of a collection agency.

(C) He or she shall be selected from the state at large subject to confirmation by the Senate and shall be a full voting member but shall not participate in the grading of examinations.

(4)(A) One (1) member shall be selected to represent the banking industry.

(B) He or she shall be an Arkansas resident who is actively engaged in the operation of a banking entity that is chartered to conduct business in the State of Arkansas.

History. Acts 1965, No. 145, § 3; 1983, No. 131, §§ 1-3, 5; 1983, No. 135, §§ 1-3, 5; A.S.A. 1947, §§ 6-623 — 6-626, 71-2003; Acts 1997, No. 250, § 131; 1997, No. 1018, § 3; 2001, No. 1766, § 1; 2015, No. 1100, § 22; 2019, No. 542, § 1.

Amendments. The 2019 amendment

substituted “banking industry” for “check cashing industry” in (b)(4)(A) and substituted “engaged in the operation of a banking entity that is chartered to conduct business” for “engaged as the owner or manager of a check cashing operation licensed to do business” in (b)(4)(B).

17-24-203. Rules.

(a) The State Board of Collection Agencies shall have the authority to promulgate rules to implement the provisions of this chapter which are not inconsistent herewith.

(b) The board shall use, to the greatest extent possible, the interpretation and construction of the Fair Debt Collection Practices Act and any other applicable portions of the debt collection laws of the United States in interpreting and applying this chapter and the rules promulgated by the board.

History. Acts 1965, No. 145, § 4; A.S.A. 1947, § 71-2004; Acts 1995, No. 288, § 1; 2019, No. 315, § 1376.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in the section heading and in (a) and (b).

SUBCHAPTER 3 — LICENSING

SECTION.

17-24-305. Fees — Disposition.

17-24-307. Grounds for revocation, suspension, or refusal.

Effective Dates. Acts 2019, No. 489, § 7: July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2019 is essential to the

operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2019 could work irreparable harm upon the proper administration and provision of essential governmental programs.

Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2019."

Acts 2021, No. 833, § 59: July 1, 2022. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2021 is essential to the operation of the

agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2021 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2021."

17-24-305. Fees — Disposition.

(a) The State Board of Collection Agencies may charge an annual license fee not to exceed one hundred twenty-five dollars (\$125) for licensing each collection agency and an annual fee of twenty dollars (\$20.00) effective September 1, 2013, for registering each employee of the licensed collection agency who as an employee solicits, collects, or attempts to collect any delinquent account or accounts by telephone, mail, personal contact, or otherwise.

(b)(1) All income from fees imposed under this section shall be distributed in the form of one (1) annual payment that is a percentage of the total funds available up to the maximum authorized under this subsection.

(2) However, if less than one hundred percent (100%) of the total allocation is available for distribution, all allocations listed in subdivisions (b)(3)(A)-(I) of this section shall be funded at a prorated percentage consistent with the available funds, not to exceed the maximum amounts listed in subdivisions (b)(3)(A)-(I) of this section.

(3) Beginning July 1, 2013, and each fiscal year thereafter, the board shall remit to:

(A) The Treasurer of State for the Division of Medical Services of the Department of Human Services, an amount not to exceed one hundred fifteen thousand dollars (\$115,000) for deposit into a paying account as determined by the Chief Fiscal Officer of the State to be used in accordance with § 20-10-705;

(B) The University of Arkansas for Medical Sciences, an amount not to exceed six hundred thousand dollars (\$600,000) for deposit into a financial institution in accordance with the policies of the University of Arkansas for Medical Sciences to be expended for the College of Pharmacy of the University of Arkansas for Medical Sciences and the College of Nursing of the University of Arkansas for Medical Sciences in accordance with § 6-64-417;

(C) Arkansas State University-Mountain Home, an amount not to exceed two hundred fifty thousand dollars (\$250,000) for deposit into the Arkansas State University-Mountain Home Fund to be expended

exclusively for the Arkansas State University-Mountain Home Practical Nursing Program;

(D) The University of Central Arkansas, an amount not to exceed one hundred thousand dollars (\$100,000) for deposit into the University of Central Arkansas Fund to be expended exclusively for the University of Central Arkansas School of Nursing;

(E) Southern Arkansas University, an amount not to exceed one hundred thousand dollars (\$100,000) for deposit into the Southern Arkansas University Fund to be expended exclusively for personal services and operating expenses of the Southern Arkansas University system;

(F) Henderson State University, an amount not to exceed one hundred thousand dollars (\$100,000) for deposit into the Henderson State University Fund;

(G) Arkansas Tech University, an amount not to exceed one hundred thousand dollars (\$100,000) for deposit into the Arkansas Tech University Fund exclusively for nursing programs;

(H) Northwest Arkansas Community College, an amount not to exceed fifty thousand dollars (\$50,000) for deposit into the Northwest Arkansas Community College Fund exclusively for nursing programs; and

(I) Arkansas Northeastern College, an amount not to exceed twenty-five thousand dollars (\$25,000) for deposit into the Arkansas Northeastern College Fund to be expended exclusively for nursing programs.

(4) Funds remaining after the distributions listed in subdivisions (b)(3)(A)-(I) of this section shall be deposited into a bank authorized to do business within this state and placed into the account of the board.

History. Acts 1965, No. 145, § 7; 1979, No. 86, § 1; 1985, No. 830, § 1; A.S.A. 1947, § 71-2007; Acts 1999, No. 1500, § 1; 2005, No. 2268, § 7; 2007, No. 1217, § 7; 2009, No. 1413, § 4; 2009, No. 1455, § 8; 2010, No. 281, § 4; 2011, No. 764, § 5; 2013, No. 1023, § 4; 2015, No. 1156, §§ 3, 4; 2019, No. 386, § 11; 2019, No. 489, § 4; 2021, No. 833, § 56.

Amendments. The 2019 amendment by No. 386, in (b)(4), inserted “a bank authorized to do business within this state

and placed into”, and substituted “account of the board” for “State Board of Collection Agencies account in a bank authorized to do business in this state”.

The 2019 amendment by No. 489 added (b)(3)(G) and (H); updated internal references; and made a stylistic change.

The 2021 amendment substituted “subdivisions (b)(3)(A)-(I)” for “subdivisions (b)(3)(A)-(H)” twice in (b)(2) and in (b)(4); and added (b)(3)(I).

17-24-307. Grounds for revocation, suspension, or refusal.

The State Board of Collection Agencies shall have the authority to revoke, suspend, or refuse to issue a license for violation of this chapter, or upon receipt of evidence as follows:

- (1) False or misrepresented statements on application;
- (2) Sale or transfer of ownership of agency;
- (3) Aiding or abetting any unlicensed person to engage in business as a collection agency;

(4) Publishing or posting, or causing to be published or posted, any list of debtors, commonly known as “deadbeat” lists;

(5) Collecting or attempting to collect by the use of any methods contrary to the postal laws and regulations of the United States;

(6) Having in his or her possession or making use of any badge, using a uniform of any law enforcement agency or any simulation thereof, or making any statements which might be construed as indicating an official connection with any federal, state, county, or city law enforcement agency, or any other governmental agency, while engaged in collection agency business;

(7) Distributing any printed matter which is made to be similar or to resemble government forms or documents, or legal forms used in civil or criminal proceedings;

(8) Advertising for sale or threatening to advertise for sale any claim as a means of endeavoring to enforce payment thereof, or agreeing to do so for the purpose of soliciting claims, except where the licensee has acquired claims as an assignee for the benefit of creditors or where the licensee is acting under the order of a court of competent jurisdiction;

(9) Engaging in any unethical practices or resorting to any illegal means or methods of collection;

(10) Using profanity, obscenity, or vulgarity while engaged in the collection of claims;

(11) Addressing a letter to or telephoning a debtor at his or her place of employment unless a good-faith attempt has been made to contact the debtor at his or her usual place of abode by letter and the mail has not been returned and no answer has been received; or

(12) Using violence or threats of physical violence while engaged in the collection of claims.

History. Acts 1965, No. 145, § 8; A.S.A. 1947, § 71-2008; Acts 2009, No. 1455, § 10; 2019, No. 990, § 25. **Amendments.** The 2019 amendment deleted former (3).

SUBCHAPTER 5 — ARKANSAS FAIR DEBT COLLECTION PRACTICES ACT

17-24-506. False or misleading representations.

RESEARCH REFERENCES

ALR. What Constitutes False Representation or Implication that Debt Collector Is Vouched for, Bonded by, or Affiliated with United States or Any State in Violation of Fair Debt Collection Practices Act (15 U.S.C. § 1692e(1)). 38 A.L.R. Fed. 3d Art. 1 (2019).

CHAPTER 25

CONTRACTORS

SUBCHAPTER.

1. GENERAL PROVISIONS.

SUBCHAPTER

2. CONTRACTORS LICENSING BOARD.
3. LICENSING.
4. CONTRACTORS' BONDS.
5. RESIDENTIAL CONTRACTORS COMMITTEE.
6. ROOFING CONTRACTOR REGISTRATION CERTIFICATE. [EFFECTIVE JANUARY 1, 2022.]

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 17-25-101. Definition.
17-25-102. Exemptions.
17-25-103. Penalties — Enforcement.

SECTION.

- 17-25-104. Injunction.
17-25-107. Abuse, neglect, or exploitation.

Effective Dates. Acts 2019, No. 805,
§ 22[23]: July 1, 2020.

17-25-101. Definition.

(a)(1) As used in this chapter, “contractor” means any person, firm, partnership, copartnership, association, corporation, or other organization, or any combination thereof, that for a fixed price, commission, fee, or wage attempts to or submits a bid to construct or demolish, or contracts or undertakes to construct or demolish, or assumes charge, in a supervisory capacity or otherwise, or manages the construction, erection, alteration, demolition, or repair, or has or have constructed, erected, altered, demolished, or repaired, under his or her, their, or its direction, any building, apartment, condominium, highway, sewer, utility, grading, or any other improvement or structure on public or private property for lease, rent, resale, public access, or similar purpose, except single-family residences, when the cost of the work to be done, or done, in the State of Arkansas by the contractor, including, but not limited to, labor and materials, is fifty thousand dollars (\$50,000) or more.

(2) However, when a person or an entity acts as a contractor in the construction, erection, alteration, demolition, or repair of his or her own or its own property, such action shall not result in the person’s or entity’s being required to obtain a license, but the person or entity shall comply with all other provisions of this chapter.

(b) However, the fifty-thousand-dollar exception shall not apply to any project of construction in which any of the construction work necessary to complete the project, except any in-progress change orders, is divided into separate contracts of amounts less than fifty thousand dollars (\$50,000), a purpose being to circumvent the provisions of this chapter.

(c) It is the intention of this definition to include all improvements, demolition, or structures, excepting only single-family residences.

(d)(1) Materials purchased by a prime contractor from a third party shall not be considered as part of the subcontractor's project if the prime contractor has the proper classification listed on a current contractor's license for the work being performed by the subcontractor.

(2) Materials purchased by a person or an entity acting as a contractor in the construction, erection, alteration, or repair of his or her own or its own property from a third party shall not be considered as a part of the subcontractor's project, provided that the subcontract is for wood framing, shingle roofing, painting, floor covering, concrete labor, or installation of playground equipment.

(e) "Owner" means a person who owns property or is a lessee of property.

(f) "Person" means any natural person, limited or general partnership, corporation, association, limited liability company, trust or other legal entity, and any organization capable of conducting business, or any combination thereof.

(g) "Prime contractor" means a contractor who contracts directly with the owner of property.

(h) "Subcontractor" means a person who contracts directly with a prime contractor or another subcontractor.

History. Acts 1965, No. 150, § 1; 1967, No. 142, § 1; 1971, No. 397, § 1; 1977, No. 684, § 1; 1979, No. 1020, § 1; 1985, No. 180, § 1; A.S.A. 1947, § 71-701; Acts 1987, No. 495, § 1; 1989, No. 26, § 1; 1995, No. 553, § 1; 1999, No. 1358, § 1; 2007, No. 275, § 1; 2015, No. 858, § 1; 2015, No. 1048, § 1; 2019, No. 386, § 12; 2019, No. 805, § 1[2].

A.C.R.C. Notes. Acts 2019, No. 805, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly finds that:

"(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

"(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

"(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry;

"(4) The Red Tape Reduction Working Group issued a final report to the Governor in the fall of 2018 with five (5) recommendations for substantive legislative reform, which are to:

"(A) Establish an expedited procedure for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation;

"(B) Extend Acts 2017, No. 781, to allow repeal of subsections of rules;

"(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

"(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

"(E) Establish a systematic process for review of:

"(i) New occupational licensure and occupational licensing entities; and

"(ii) Existing occupational licensure and occupational licensing entities;

"(5) Several occupational licenses are needlessly regulated and could be deregulated or de-licensed without causing detrimental harm to the citizens of the State of Arkansas and the economy of the this state;

"(6) Research has found that occupational licensing reduces access to jobs,

inhibits geographic mobility, and raises the costs of services;

“(b) It is the intent of the General Assembly to amend the laws concerning contractors and to allow registration of subcontractors and eliminate the subcontractor licensing requirement.”

Amendments. The 2019 amendment by No. 386 substituted “chapter” for “subchapter” in (a)(2).

The 2019 amendment by No. 805 added (e) through (h).

Effective Dates. Acts 2019, No. 805, § 22[23]; July 1, 2020.

17-25-102. Exemptions.

The following shall be exempted from the provisions of this chapter:

(1) The practice of contracting as defined in § 17-25-101 by an authorized representative or representatives of the United States Government, State of Arkansas, incorporated town, city or county, or other political subdivision in this state;

(2) Architects and engineers, whose only financial interest in a project shall be the architectural or engineering fees for preparing plans, specifications, surveys, and supervision that is customarily furnished by architects and engineers;

(3)(A) Manufacturers who produce equipment to be installed in the State of Arkansas and have the responsibility for the installation of the equipment, which would require a license under this chapter, if the installation is performed by a contractor properly licensed under this chapter.

(B) The Contractors Licensing Board shall have the authority to define “manufacturers” as it is used in this subdivision (3); and

(4)(A) Subcontractors of a licensed contractor who are properly registered with the board under this chapter.

(B) The board may issue rules necessary for the:

(i) Implementation of a registration process;

(ii) Determination of application fees for registration; and

(iii) Establishment of civil penalties in the same amounts and under the same procedures as for other license holders under this chapter.

History. Acts 1965, No. 150, §§ 1, 16; 1967, No. 142, § 1; 1971, No. 397, § 1; 1977, No. 684, § 1; 1979, No. 1020, § 1; A.S.A. 1947, §§ 71-701, 71-715; Acts 2001, No. 583, § 1; 2019, No. 805, § 2[3].

A.C.R.C. Notes. Acts 2019, No. 805, § 1, provided: “Legislative findings and intent.

“(a) The General Assembly finds that:

“(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

“(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department

of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

“(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry;

“(4) The Red Tape Reduction Working Group issued a final report to the Governor in the fall of 2018 with five (5) recommendations for substantive legislative reform, which are to:

“(A) Establish an expedited procedure

for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation;

“(B) Extend Acts 2017, No. 781, to allow repeal of subsections of rules;

“(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

“(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

“(E) Establish a systematic process for review of:

“(i) New occupational licensure and occupational licensing entities; and

“(ii) Existing occupational licensure and occupational licensing entities;

“(5) Several occupational licenses are needlessly regulated and could be deregulated or de-licensed without causing detrimental harm to the citizens of the State of Arkansas and the economy of the this state;

“(6) Research has found that occupational licensing reduces access to jobs, inhibits geographic mobility, and raises the costs of services;

“(b) It is the intent of the General Assembly to amend the laws concerning contractors and to allow registration of subcontractors and eliminate the subcontractor licensing requirement.”

Amendments. The 2019 amendment added (4).

Effective Dates. Acts 2019, No. 805, § 22[23]: July 1, 2020.

17-25-103. Penalties — Enforcement.

(a)(1) It is a violation of this chapter for any contractor to knowingly do any of the following:

(A)(i) For a fixed price, commission, fee, or wage attempt to or submit a bid or bids to construct or demolish or contract to construct or demolish, or undertake to construct or demolish, or assume charge in a supervisory capacity or otherwise, or manage the construction, erection, alteration, demolition, or repair of, or has constructed, erected, altered, demolished, or repaired, under his or her or its direction, any building, apartment, condominium, highway, sewer, utility, grading, or any other improvement or structure, when the cost of the work to be done, or done, in the State of Arkansas by the contractor, including, but not limited to, labor and materials, is fifty thousand dollars (\$50,000) or more, without first having procured a license or registration with the proper classification to engage in the business of contracting in this state.

(ii) Subdivision (a)(1)(A)(i) of this section does not apply to any demolition work or other work necessary to clean up a natural disaster within seventy-two (72) hours following the natural disaster;

(B) Present or file the license or registration certificate of another;

(C) Give false or forged evidence of any kind to the Contractors Licensing Board or any member thereof in obtaining a certificate of license or registration;

(D) Impersonate another; or

(E) Use an expired or revoked certificate of license or registration.

(2) A violation under subdivision (a)(1) of this section is a Class A misdemeanor, with each day of activity constituting a separate offense.

(b) The doing of any act or thing herein prohibited by any applicant, licensee, or registrant shall, in the discretion of the board, constitute sufficient grounds to refuse a license or registration to an applicant or to revoke the license of a licensee or the registration of a registrant.

(c) Regarding any violation of this chapter, the board shall have the power to issue subpoenas and bring before the board as a witness any person in the state and may require the witness to bring with him or her any book, writing, or other thing under his or her control which he or she is bound by law to produce in evidence.

(d) No action may be brought either at law or in equity to enforce any provision of any contract entered into in violation of this chapter. No action may be brought either at law or in equity for quantum meruit by any contractor in violation of this chapter.

(e)(1)(A) Any contractor who, after notice and hearing, is found by the board to have violated or used a contractor in violation of this chapter shall pay to the board a civil penalty of not less than one hundred dollars (\$100) nor more than four hundred dollars (\$400) per day for the activity. However, the penalty shall not exceed three percent (3%) of the total project being performed by the contractor.

(B)(i) The penalty provided for in this chapter plus interest at ten percent (10%) per annum shall be paid to the board before the contractor can be issued a license to engage in the business of contracting in this state.

(ii) In addition to the assessment of the penalty, the board, upon a finding of a violation of this chapter, may issue an order of abatement directing the contractor to cease all actions constituting a violation of this chapter.

(2) The board shall have the power to withhold approval for up to six (6) months of any application from any person who, before approval of the application, has been found in violation of this chapter.

(3) All hearings and appeals therefrom under this chapter shall be pursuant to the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(4) No proceedings under this chapter may be commenced by the board after three (3) years from the date on which the act or omission which is the basis for the proceeding occurred.

(5) The board shall have the power to file suit in the Pulaski County Circuit Court to obtain a judgment for the amount of any penalty not paid within thirty (30) days of service on the contractor of the order assessing the penalty, unless the circuit court enters a stay pursuant to the provisions of this chapter.

(6)(A) The board shall have the power to file suit in the Pulaski County Circuit Court to enforce any order of abatement not complied with within fifteen (15) days, excluding Saturdays, Sundays, and legal holidays, of service on the contractor of the order of abatement.

(B) If the circuit court finds the order of abatement to have been properly issued, it may enforce the order by any means by which injunctions are ordinarily enforced.

(C) However, nothing shall be construed herein to diminish the contractor's right to appeal and obtain a stay pursuant to the procedures provided for in this chapter.

History. Acts 1965, No. 150, § 14; 1985, No. 180, § 4; A.S.A. 1947, § 71-713; Acts 1987, No. 495, § 3; 1989, No. 795, § 2; 1999, No. 43, § 1; 2007, No. 275, § 2; 2015, No. 1048, § 2; 2019, No. 805, §§ 3[4], 4[5].

A.C.R.C. Notes. Acts 2019, No. 805, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly finds that:

"(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

"(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

"(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry;

"(4) The Red Tape Reduction Working Group issued a final report to the Governor in the fall of 2018 with five (5) recommendations for substantive legislative reform, which are to:

"(A) Establish an expedited procedure for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation;

"(B) Extend Acts 2017, No. 781, to allow repeal of subsections of rules;

"(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

"(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

"(E) Establish a systematic process for review of:

"(i) New occupational licensure and occupational licensing entities; and

"(ii) Existing occupational licensure and occupational licensing entities;

"(5) Several occupational licenses are needlessly regulated and could be deregulated or de-licensed without causing detrimental harm to the citizens of the State of Arkansas and the economy of the this state;

"(6) Research has found that occupational licensing reduces access to jobs, inhibits geographic mobility, and raises the costs of services;

"(b) It is the intent of the General Assembly to amend the laws concerning contractors and to allow registration of subcontractors and eliminate the subcontractor licensing requirement."

Amendments. The 2019 amendment rewrote (a); and, in (b), substituted "applicant, licensee, or registrant" for "applicant or licensee", inserted "or registration", and added "or the registration of a registrant".

Effective Dates. Acts 2019, No. 805, § 22[23]: July 1, 2020.

CASE NOTES

Applicability.

Circuit court erred in not allowing a contractor an offset against a judgment for the balance due under a construction contract because subsection (d) of this section could not be interpreted to mean

that the contractor was unable to defend the action for negligent construction and breach of contract that was brought against the contractor by a homeowner. *Southern Constr., LLC v. Horton*, 2020 Ark. App. 361, 609 S.W.3d 16 (2020).

17-25-104. Injunction.

When any contractor engages or attempts to engage in the business of contracting as herein defined, in violation of this chapter, the Contractors Licensing Board shall have the right to go into a court where venue is proper and is of competent jurisdiction and, upon affidavit, secure a writ of injunction, without bond, restraining and

prohibiting the contractor from performance of the work then being done or about to commence.

History. Acts 1965, No. 150, § 18; A.S.A. 1947, § 71-717; Acts 2019, No. 805, § 5[6].

A.C.R.C. Notes. Acts 2019, No. 805, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly finds that:

"(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

"(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

"(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry;

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"(A) Establish an expedited procedure for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation;

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"(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

"(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

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"(6) Research has found that occupational licensing reduces access to jobs, inhibits geographic mobility, and raises the costs of services;

"(b) It is the intent of the General Assembly to amend the laws concerning contractors and to allow registration of subcontractors and eliminate the subcontractor licensing requirement."

Amendments. The 2019 amendment substituted "engages or attempts" for "not licensed by the Contractors Licensing Board shall engage or attempt", inserted "in violation of this chapter", and substituted "the Contractors Licensing Board shall have the right to go into a court where venue is proper and is of competent jurisdiction" for "the board shall have the right to go into the proper court in the jurisdiction in which the work is being performed".

Effective Dates. Acts 2019, No. 805, § 22[23]: July 1, 2020.

17-25-107. Abuse, neglect, or exploitation.

(a) The definitions under § 5-28-101 apply to this chapter.

(b) Any contractor licensed or registered under this chapter that is found by the Contractors Licensing Board or the Residential Contractors Committee to have abused, neglected, or exploited an endangered person or an impaired person while engaging in performing the services of a contractor as defined under § 17-25-101 is subject to emergency license or registration suspension under §§ 17-25-309 and 17-25-510.

(c) The board may provide evidence, documentation, reports, and information related to the abuse, neglect, or exploitation of an endan-

gered person or an impaired person to any entity with the authority to enforce § 5-28-101 et seq.

History. Acts 2019, No. 805, § 6[7].

A.C.R.C. Notes. Acts 2019, No. 805, § 1, provided: “Legislative findings and intent.

“(a) The General Assembly finds that:

“(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

“(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

“(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry;

“(4) The Red Tape Reduction Working Group issued a final report to the Governor in the fall of 2018 with five (5) recommendations for substantive legislative reform, which are to:

“(A) Establish an expedited procedure for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation;

“(B) Extend Acts 2017, No. 781, to allow repeal of subsections of rules;

“(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

“(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

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“(6) Research has found that occupational licensing reduces access to jobs, inhibits geographic mobility, and raises the costs of services;

“(b) It is the intent of the General Assembly to amend the laws concerning contractors and to allow registration of subcontractors and eliminate the subcontractor licensing requirement.”

Effective Dates. Acts 2019, No. 805, § 22[23]: July 1, 2020.

SUBCHAPTER 2 — CONTRACTORS LICENSING BOARD

SECTION.

17-25-203. Powers.

17-25-204. Employees.

SECTION.

17-25-205. Disposition of funds.

17-25-206. Records and reports.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

17-25-203. Powers.

(a) The Contractors Licensing Board shall have power to make such bylaws and rules for its operation as it shall consider appropriate, provided that they are not in conflict with the laws of the State of Arkansas.

(b) All expenses incurred by the board for the administration of this chapter are authorized to be paid by the board.

(c) The board, or any committee thereof, shall be entitled to the services of the Attorney General or other state legal counsel as deemed appropriate, in connection with the operation of the affairs of the board. Additional legal counsel may be employed by the board from time to time as it may deem necessary.

History. Acts 1965, No. 150, §§ 3, 4, 6; 1969, No. 293, § 1; 1973, No. 293, § 1; 1979, No. 1020, § 2; 1985, No. 180, § 2; A.S.A. 1947, §§ 71-703, 71-704, 71-706; Acts 2019, No. 315, § 1377.

Amendments. The 2019 amendment substituted “bylaws and rules” for “by-laws, rules, and regulations” in (a).

17-25-204. Employees.

The Contractors Licensing Board in consultation with the Secretary of the Department of Labor and Licensing may employ a chief administrative employee, also known as “administrator”, who shall possess such qualifications as may be determined by the board and who shall serve at the pleasure of the board. In addition, the board may employ such additional professional and clerical employees as may be necessary for the operation of the board and its various functions and pay salaries thereto as may be authorized by law.

History. Acts 1965, No. 150, § 6; 1969, No. 293, § 1; 1973, No. 293, § 1; 1985, No. 180, § 2; A.S.A. 1947, § 71-706; Acts 2019, No. 910, § 5417.

in the first sentence, substituted “in consultation with the Secretary of the Department of Labor and Licensing may employ” for “shall employ” and “Contractors Licensing Board” for “board”.

Amendments. The 2019 amendment,

17-25-205. Disposition of funds.

The fees of the Contractors Licensing Board shall be deposited into banks to be used by the Contractors Licensing Board in the manner prescribed by law, similar to the accounts of other examining and licensing boards of the state, and shall be audited under rules prescribed by the Secretary of the Department of Finance and Administration.

History. Acts 1965, No. 150, § 5; A.S.A. 1947, § 71-705; Acts 2019, No. 315, § 1378; 2019, No. 910, § 3424.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules”.

The 2019 amendment by No. 910 substituted “Secretary of the Department of Finance and Administration” for “Director of the Department of Finance and Administration”.

17-25-206. Records and reports.

(a) The Secretary of the Contractors Licensing Board shall keep a record of the proceedings of the Contractors Licensing Board.

(b) The Secretary of the Contractors Licensing Board shall keep a register of all applications for license showing for each:

(1) The date of application, name, qualification, place of business, and place of residence;

(2) Whether the license was granted or refused; and

(3) A complete transcript of the proceedings, including evidence submitted by applicants, licensees, the board, or otherwise, at any hearing.

(c) The books and register of this board, including transcripts of proceedings, shall be prima facie evidence of all matters recorded therein. A certified copy of such books or register, including a transcript of proceedings, under the seal of the board and attested by the Secretary of the Contractors Licensing Board, shall be received in evidence in all courts of the state in lieu of the original.

(d) A roster showing the names and places of business and of residence of all licensed contractors shall be prepared annually by the Secretary of the Contractors Licensing Board.

(e) On or before August 1 of each year, the board shall submit to the Secretary of the Department of Labor and Licensing a report of its transactions for the preceding year and shall file with the Secretary of State a copy of the report, together with a complete statement of receipts and expenditures of the board attested by the affidavit of the Chair of the Contractors Licensing Board and the Secretary of the Contractors Licensing Board and a copy of the roster of licensed contractors.

(f) A record shall be made and preserved by the board of each examination of applicant or licensee. The findings of the board thereon and a certified copy of the record shall be furnished to any applicant or licensee desiring to appeal from the findings of the board, as provided in § 17-25-312, upon payment of the costs of transcribing the record.

History. Acts 1965, No. 150, §§ 5, 7, 9; A.S.A. 1947, §§ 71-705, 71-707, 71-709; Acts 1999, No. 43, § 2; 2019, No. 910, § 5418.

Amendments. The 2019 amendment,

in (e), substituted “Secretary of the Department of Labor and Licensing” for “Governor” and “Secretary of the Contractors Licensing Board” for “secretary”.

SUBCHAPTER 3 — LICENSING

SECTION.

- 17-25-301. Significance — Proof.
- 17-25-302. Limitations.
- 17-25-303. Application — Renewal — Fees.
- 17-25-304. Financial statement — Surety bond.
- 17-25-305. Applicant qualifications.

SECTION.

- 17-25-306. Examinations — Certification.
- 17-25-307. Expiration.
- 17-25-308. Grounds for revocation.
- 17-25-309. Procedure for revocation — Reissuance — Emergency suspension.

SECTION.

17-25-310. Replacement.

17-25-315. Rules — Federally funded projects — Contractor qualifications.

SECTION.

17-25-316. Workers' compensation coverage required.

Effective Dates. Acts 2019, No. 805,
§ 22[23]: July 1, 2020.

17-25-301. Significance — Proof.

(a) The issuance of a certificate of license or registration by the Contractors Licensing Board shall be evidence that the person, firm, or corporation named on the certificate of license or registration is entitled to all of the rights and privileges of a licensed or registered contractor while the license or registration remains unrevoked or unexpired.

(b)(1) Upon making application to the building inspector or other authority of any incorporated city or town in Arkansas charged with the duty of issuing building or other permits for the construction of any building, apartment, condominium, utility, highway, sewer, grading, or any other improvement or structure, when the cost of the work to be done by the contractor, but not limited to labor and materials, is fifty thousand dollars (\$50,000) or more, any person, firm, or corporation, before being entitled to the issuance of such permits, shall furnish satisfactory proof to the inspector or authority that he or she is duly licensed under the terms of this chapter.

(2) It shall be unlawful for the building inspector or other authority to issue or allow the issuance of a building permit unless and until the applicant has furnished evidence that he or she is either exempt from the provisions of this chapter or is duly licensed under this chapter to carry out or superintend the work for which the permit has been applied.

History. Acts 1965, No. 150, § 13; A.S.A. 1947, § 71-712; Acts 1987, No. 495, § 2; 2015, No. 1048, § 3; 2019, No. 805, § 7[8].

A.C.R.C. Notes. Acts 2019, No. 805, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly finds that:

"(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

"(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department of Labor and supported in partnership

with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

"(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry;

"(4) The Red Tape Reduction Working Group issued a final report to the Governor in the fall of 2018 with five (5) recommendations for substantive legislative reform, which are to:

"(A) Establish an expedited procedure for occupational licensing entities to col-

lectively submit administrative rules that are responsive to new legislation;

“(B) Extend Acts 2017, No. 781, to allow repeal of subsections of rules;

“(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

“(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

“(E) Establish a systematic process for review of:

“(i) New occupational licensure and occupational licensing entities; and

“(ii) Existing occupational licensure and occupational licensing entities;

“(5) Several occupational licenses are needlessly regulated and could be deregulated or de-licensed without causing detrimental harm to the citizens of the State of Arkansas and the economy of the this state;

“(6) Research has found that occupational licensing reduces access to jobs, inhibits geographic mobility, and raises the costs of services;

“(b) It is the intent of the General Assembly to amend the laws concerning contractors and to allow registration of subcontractors and eliminate the subcontractor licensing requirement.”

Amendments. The 2019 amendment, in (a), twice inserted “or registration”, substituted “on the certificate of license or registration” for “therein”, and inserted “or registered”.

Effective Dates. Acts 2019, No. 805, § 22[23]: July 1, 2020.

17-25-302. Limitations.

The Contractors Licensing Board shall have power to limit by proper classification the license or registration to the character of work for which the applicant is qualified.

History. Acts 1965, No. 150, § 10; A.S.A. 1947, § 71-710; Acts 1999, No. 43, § 3; 2019, No. 805, § 8[9].

A.C.R.C. Notes. Acts 2019, No. 805, § 1, provided: “Legislative findings and intent.

“(a) The General Assembly finds that:

“(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

“(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

“(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry;

“(4) The Red Tape Reduction Working Group issued a final report to the Governor in the fall of 2018 with five (5) recommendations for substantive legislative reform, which are to:

“(A) Establish an expedited procedure for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation;

“(B) Extend Acts 2017, No. 781, to allow repeal of subsections of rules;

“(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

“(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

“(E) Establish a systematic process for review of:

“(i) New occupational licensure and occupational licensing entities; and

“(ii) Existing occupational licensure and occupational licensing entities;

“(5) Several occupational licenses are needlessly regulated and could be deregulated or de-licensed without causing detrimental harm to the citizens of the State of Arkansas and the economy of the this state;

“(6) Research has found that occupational licensing reduces access to jobs, inhibits geographic mobility, and raises the costs of services;

“(b) It is the intent of the General Assembly to amend the laws concerning contractors and to allow registration of subcontractors and eliminate the subcontractor licensing requirement.”

Amendments. The 2019 amendment inserted “or registration”.

Effective Dates. Acts 2019, No. 805, § 22[23]: July 1, 2020.

17-25-303. Application — Renewal — Fees.

(a)(1)(A) A person desiring to be licensed or registered as a contractor in this state shall make and file with the Contractors Licensing Board thirty (30) days before any regular or special meeting of the board, a written application on a form prescribed by the board, for examination by the board.

(B) The application shall be accompanied by payment in a sum to be determined by the board, but not to exceed one hundred dollars (\$100) to the board.

(2) The thirty-day requirement may be waived by the board provided that the contractor has on file with the board a completed original application and proof of having successfully completed any examination required.

(b) Thereafter, an annual renewal license or registration fee to be determined by the board but not to exceed one hundred dollars (\$100) shall be paid by each licensee or registrant to defray the costs and expenses of the administration of this chapter.

History. Acts 1965, No. 150, § 8; 1971, No. 546, § 1; 1979, No. 1020, § 3; 1985, No. 180, § 3; A.S.A. 1947, § 71-708; Acts 1997, No. 335, § 1; 2019, No. 805, §§ 9[10], 10[11].

A.C.R.C. Notes. Acts 2019, No. 805, § 1, provided: “Legislative findings and intent.

“(a) The General Assembly finds that:

“(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

“(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

“(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry;

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nor in the fall of 2018 with five (5) recommendations for substantive legislative reform, which are to:

“(A) Establish an expedited procedure for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation;

“(B) Extend Acts 2017, No. 781, to allow repeal of subsections of rules;

“(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

“(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

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“(i) New occupational licensure and occupational licensing entities; and

“(ii) Existing occupational licensure and occupational licensing entities;

“(5) Several occupational licenses are needlessly regulated and could be deregulated or de-licensed without causing detrimental harm to the citizens of the State of Arkansas and the economy of the this state;

"(6) Research has found that occupational licensing reduces access to jobs, inhibits geographic mobility, and raises the costs of services;

"(b) It is the intent of the General Assembly to amend the laws concerning contractors and to allow registration of subcontractors and eliminate the subcontractor licensing requirement."

Amendments. The 2019 amendment, in (a)(1)(A), inserted "or registered", substituted "of the board" for "thereof", and deleted "as may then be" preceding "prescribed"; in (b), inserted "or registration" and "or registrant"; and made a stylistic change.

Effective Dates. Acts 2019, No. 805, § 22[23]: July 1, 2020.

17-25-304. Financial statement — Surety bond.

(a)(1) All persons and entities required by this chapter to be licensed by the Contractors Licensing Board shall transmit to the board with their original and renewal applications a financial statement of the applicant reviewed by a licensed certified public accountant or licensed public accountant in accordance with the American Institute of Certified Public Accountants Statements on Standards for Accounting and Review Services.

(2) However, if the total cost of the work to be completed by the applicant, including without limitation labor and materials, is less than seven hundred fifty thousand dollars (\$750,000) for a single project, the applicant shall transmit to the board with his or her original and renewal applications a compiled financial statement of the applicant prepared by a licensed certified public accountant or licensed public accountant in accordance with the American Institute of Certified Public Accountants Statements on Standards for Accounting and Review Services.

(b)(1) The financial statement shall not be made public information and shall not be made available for inspection by any person, except pursuant to an order of a court of competent jurisdiction.

(2) After the contractor is licensed, the board has the option of:

(A) Destroying the financial statement by the process of shredding; or

(B) Returning the financial statement to the contractor.

(c)(1) In lieu of providing a financial statement for a person or entity required to be licensed or registered by the board as required by subsections (a) and (b) of this section, an applicant may provide a surety bond from:

(A) A surety authorized to transact surety business in the State of Arkansas; and

(B) A surety listed on the current United States Department of the Treasury's List of Approved Sureties.

(2) The surety bond shall be in an amount ten (10) times the required net worth for the applicant's license or registration classification with his or her initial or renewal application.

(3) The surety bond provided under this subsection shall:

(A) Be continuous in form;

(B)(i) Be maintained in effect for as long as the applicant maintains the license or registration issued by the board.

(ii) If an applicant submits a financial statement acceptable to the board, the surety bond may be canceled;

(C)(i) List the State of Arkansas as obligee for the bond.

(ii) The state shall have priority over all other claims to recover against the bond;

(D) Be for the benefit of any person who is damaged by:

(i) An act or omission of the applicant constituting a breach of a construction contract or a contract for the furnishing of labor, materials, or professional services for construction undertaken by the applicant; or

(ii) An unlawful act or omission of the applicant in performing the services of a contractor as defined under § 17-25-101; and

(E) Be in addition to, and not in lieu of, any other surety bond required of the applicant by law or rule, or by any party to a contract with the applicant.

(4)(A) The surety bond provided in this subsection may only be canceled by notification to the board by the surety and the applicant sixty (60) days before cancellation.

(B) When the surety bond is canceled, the licensee or registrant shall provide a replacement bond or submit a financial statement as required by this section before the effective date of the cancellation or the license or registration of the licensee or registrant shall be suspended.

(5) The board may adopt rules necessary to enforce this subsection.

History. Acts 1981, No. 275, § 1; A.S.A. 1947, § 71-708.1; Acts 1997, No. 378, § 1; 2011, No. 4, § 1; 2017, No. 805, § 1; 2019, No. 805, § 11[12].

A.C.R.C. Notes. Acts 2019, No. 805, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly finds that:

"(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

"(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

"(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry;

"(4) The Red Tape Reduction Working Group issued a final report to the Governor in the fall of 2018 with five (5) recommendations for substantive legislative reform, which are to:

"(A) Establish an expedited procedure for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation;

"(B) Extend Acts 2017, No. 781, to allow repeal of subsections of rules;

"(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

"(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

"(E) Establish a systematic process for review of:

"(i) New occupational licensure and occupational licensing entities; and

"(ii) Existing occupational licensure and occupational licensing entities;

"(5) Several occupational licenses are needlessly regulated and could be deregulated or de-licensed without causing det-

rimental harm to the citizens of the State of Arkansas and the economy of the this state;

“(6) Research has found that occupational licensing reduces access to jobs, inhibits geographic mobility, and raises the costs of services;

“(b) It is the intent of the General As-

sembly to amend the laws concerning contractors and to allow registration of subcontractors and eliminate the subcontractor licensing requirement.”

Amendments. The 2019 amendment added (c).

Effective Dates. Acts 2019, No. 805, § 22[23]; July 1, 2020.

17-25-305. Applicant qualifications.

(a) The Contractors Licensing Board, in determining the qualifications of any applicant for an original license or any renewal license, shall, among other things, consider the following:

- (1) Experience;
- (2) Ability;
- (3) The manner of performance of previous contracts;
- (4) Financial condition;
- (5) Equipment;
- (6) Any other fact tending to show ability and willingness to conserve the public health and safety; and
- (7) Default in complying with the provisions of this chapter or another law of the state.

(b) The board may develop reciprocal agreements with other states with similar licensing responsibilities.

(c) In addition to the offenses listed in § 17-3-102, the board may consider the following offenses when determining fitness for licensure or registration of a contractor under this chapter:

- (1) Conviction of a crime with an element of dishonesty or fraud under the laws of this state, another state, or the United States;
- (2) Conviction of voyeurism as prohibited in §§ 5-16-101 and 5-16-102;
- (3) Conviction under the Arkansas Hot Check Law, § 5-37-301 et seq.; and
- (4)(A) A crime or act that is substantially related to the qualifications, functions, or duties of a contractor.

(B) A crime or act may be deemed substantially related to the qualifications, functions, or duties of a contractor if, to a substantial degree, the crime or act evidences present or potential unfitness of a person applying for or holding a contractor's license or registration to perform the functions authorized by the license or registration.

History. Acts 1965, No. 150, § 9; A.S.A. 1947, § 71-709; Acts 1997, No. 335, § 2; 2019, No. 990, §§ 26, 27.

Amendments. The 2019 amendment

deleted former (a)(3) and redesignated the remaining subdivisions accordingly; substituted “or another law” for “or any other law” in (a)(7); and added (c).

17-25-306. Examinations — Certification.

(a) Any person desiring to apply for a license shall be permitted to take an examination to determine the applicant's qualifications.

(b) If the result of the examination of any applicant shall be satisfactory to the Contractors Licensing Board, and if the application complies with the board's rules, then the board shall issue to the applicant a certificate to engage in contracting in the State of Arkansas.

(c) Anyone failing to pass the examination may be reexamined at any regular meeting of the board upon payment of the regular fee.

History. Acts 1965, No. 150, § 8; 1971, No. 546, § 1; 1979, No. 1020, § 3; 1985, No. 180, § 3; A.S.A. 1947, § 71-708; Acts 2001, No. 583, § 2; 2019, No. 315, § 1379.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (b).

17-25-307. Expiration.

(a) All certificates of license or registration to engage in performing the services of a contractor as defined under § 17-25-101 in the State of Arkansas shall expire at 12:00 midnight on the day before the anniversary date of issuance unless otherwise designated by the Contractors Licensing Board, and all certificates of license or registration shall become invalid on that day unless renewed.

(b) A registration may be renewed for a period of one (1) year, two (2) years, or three (3) years with the fee of one hundred dollars (\$100) per year.

History. Acts 1965, No. 150, § 8; 1971, No. 546, § 1; 1979, No. 1020, § 3; 1985, No. 180, § 3; A.S.A. 1947, § 71-708; Acts 2019, No. 805, § 12[13]; 2021, No. 330, § 1.

A.C.R.C. Notes. Acts 2019, No. 805, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly finds that:

"(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

"(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

"(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry;

"(4) The Red Tape Reduction Working Group issued a final report to the Governor in the fall of 2018 with five (5) recom-

mendations for substantive legislative reform, which are to:

"(A) Establish an expedited procedure for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation;

"(B) Extend Acts 2017, No. 781, to allow repeal of subsections of rules;

"(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

"(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

"(E) Establish a systematic process for review of:

"(i) New occupational licensure and occupational licensing entities; and

"(ii) Existing occupational licensure and occupational licensing entities;

"(5) Several occupational licenses are needlessly regulated and could be deregulated or de-licensed without causing detrimental harm to the citizens of the State of Arkansas and the economy of the this state;

"(6) Research has found that occupational licensing reduces access to jobs,

inhibits geographic mobility, and raises the costs of services;

“(b) It is the intent of the General Assembly to amend the laws concerning contractors and to allow registration of subcontractors and eliminate the subcontractor licensing requirement.”

Amendments. The 2019 amendment inserted “or registration”, substituted “in performing the services of a contractor as

defined under § 17-25-101” for “in the business of contracting”, deleted “their” following “date of”, and substituted “all certificates of license or registration” for “they”.

The 2021 amendment added (b) and redesignated the former section as (a).

Effective Dates. Acts 2019, No. 805, § 22[23]: July 1, 2020.

17-25-308. Grounds for revocation.

(a) The Contractors Licensing Board may revoke the certificate of license or registration of any contractor licensed or registered under this chapter who is found guilty of any fraud or deceit in obtaining a license or registration or for aiding or abetting any contractor or person to violate the provisions of this chapter or for gross negligence, incompetence, or misconduct in the conduct of the contractor’s business.

(b) The board may revoke the certificate of license of a contractor licensed under this chapter who fails to obtain or maintain workers’ compensation coverage as required under the Workers’ Compensation Law, § 11-9-101 et seq., and § 17-25-514.

History. Acts 1965, No. 150, § 12; A.S.A. 1947, § 71-711; Acts 2009, No. 327, § 4; 2019, No. 805, § 13[14].

A.C.R.C. Notes. Acts 2019, No. 805, § 1, provided: “Legislative findings and intent.

“(a) The General Assembly finds that:

“(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

“(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

“(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry;

“(4) The Red Tape Reduction Working Group issued a final report to the Governor in the fall of 2018 with five (5) recommendations for substantive legislative reform, which are to:

“(A) Establish an expedited procedure for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation;

“(B) Extend Acts 2017, No. 781, to allow repeal of subsections of rules;

“(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

“(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

“(E) Establish a systematic process for review of:

“(i) New occupational licensure and occupational licensing entities; and

“(ii) Existing occupational licensure and occupational licensing entities;

“(5) Several occupational licenses are needlessly regulated and could be deregulated or de-licensed without causing detrimental harm to the citizens of the State of Arkansas and the economy of the this state;

“(6) Research has found that occupational licensing reduces access to jobs, inhibits geographic mobility, and raises the costs of services;

“(b) It is the intent of the General Assembly to amend the laws concerning con-

tractors and to allow registration of subcontractors and eliminate the subcontractor licensing requirement.”

in (a), twice inserted “or registration” and inserted “or registered”.

Amendments. The 2019 amendment,

Effective Dates. Acts 2019, No. 805, § 22[23]: July 1, 2020.

17-25-309. Procedure for revocation — Reissuance — Emergency suspension.

(a) Any person may prefer charges in connection with the foregoing against any contractor licensed or registered under this chapter.

(b) The charges shall be in writing and sworn to by the complainant and mailed to the Contractors Licensing Board and, unless dismissed without hearing by the board as unfounded or trivial, shall be heard and determined by the board.

(c) A time and place for the hearing shall be fixed by the board, and the hearing shall be held in the State of Arkansas.

(d) A copy of the charges, together with the notice of the time and place of hearing, shall be considered as legally served by the board when sent to the last known address of the accused by certified mail at least ten (10) days before the date fixed for the hearing. In the event that such service cannot be effected ten (10) days before the hearing, then the date of hearing and determination shall be postponed as may be necessary to permit the carrying out of this condition.

(e) At the hearing the accused contractor shall have the right to appear personally and by counsel and to cross-examine witnesses and to submit evidence in the contractor’s behalf and defense.

(f) If after the hearing the board finds the facts as alleged and of such character as to disqualify the contractor, then the board shall revoke the license or registration of the contractor, but in that event no refund shall be made of the license or registration fee.

(g) Within its discretion and upon proper application or hearing, the board may reissue a license or registration to any contractor whose license or registration has been revoked.

(h)(1) When abuse, neglect, or exploitation of an endangered person or an impaired person is found by the board to have occurred, the board may:

(A) State in writing that due to imminent physical or other harm to the endangered person or impaired person, the situation merits the emergency suspension of a license or registration; and

(B) Proceed with the suspension of a license or registration without a hearing or upon any abbreviated hearing that the board finds practicable to suspend the license or registration.

(2) The emergency suspension shall become effective immediately, unless otherwise stated in the written determination by the board.

(3) The emergency suspension may be effective for a period of thirty (30) days or less and the emergency suspension shall not be renewable.

(4) When an emergency suspension is ordered, a formal suspension or revocation proceeding shall be promptly instituted and acted upon in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 1965, No. 150, § 12; A.S.A. 1947, § 71-711; Acts 1999, No. 43, § 4; 2003, No. 91, § 1; 2019, No. 805, §§ 14[15]-16[17].

A.C.R.C. Notes. Acts 2019, No. 805, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly finds that:

"(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

"(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

"(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry;

"(4) The Red Tape Reduction Working Group issued a final report to the Governor in the fall of 2018 with five (5) recommendations for substantive legislative reform, which are to:

"(A) Establish an expedited procedure for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation;

"(B) Extend Acts 2017, No. 781, to allow repeal of subsections of rules;

"(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

"(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

"(E) Establish a systematic process for review of:

"(i) New occupational licensure and occupational licensing entities; and

"(ii) Existing occupational licensure and occupational licensing entities;

"(5) Several occupational licenses are needlessly regulated and could be deregulated or de-licensed without causing detrimental harm to the citizens of the State of Arkansas and the economy of the this state;

"(6) Research has found that occupational licensing reduces access to jobs, inhibits geographic mobility, and raises the costs of services;

"(b) It is the intent of the General Assembly to amend the laws concerning contractors and to allow registration of subcontractors and eliminate the subcontractor licensing requirement."

Amendments. The 2019 amendment inserted "or registered" in (a); inserted "or registration" twice in (f) and (g); and added (h).

Effective Dates. Acts 2019, No. 805, § 22[23]: July 1, 2020.

17-25-310. Replacement.

A certificate of license or registration to replace any lost, destroyed, or mutilated certificate may be issued subject to the rules of the Contractors Licensing Board.

History. Acts 1965, No. 150, § 12; A.S.A. 1947, § 71-711; Acts 2019, No. 315, § 1380; 2019, No. 805, § 17[18].

A.C.R.C. Notes. Acts 2019, No. 805, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly finds that:

"(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

"(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a

grant from the United States Department of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

"(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry;

"(4) The Red Tape Reduction Working Group issued a final report to the Gover-

nor in the fall of 2018 with five (5) recommendations for substantive legislative reform, which are to:

“(A) Establish an expedited procedure for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation;

“(B) Extend Acts 2017, No. 781, to allow repeal of subsections of rules;

“(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

“(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

“(E) Establish a systematic process for review of:

“(i) New occupational licensure and occupational licensing entities; and

“(ii) Existing occupational licensure and occupational licensing entities;

“(5) Several occupational licenses are needlessly regulated and could be deregulated or de-licensed without causing detrimental harm to the citizens of the State of Arkansas and the economy of the this state;

“(6) Research has found that occupational licensing reduces access to jobs, inhibits geographic mobility, and raises the costs of services;

“(b) It is the intent of the General Assembly to amend the laws concerning contractors and to allow registration of subcontractors and eliminate the subcontractor licensing requirement.”

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules”.

The 2019 amendment by No. 805 inserted “or registration” and deleted “and regulations” following “rules”.

Effective Dates. Acts 2019, No. 805, § 22[23]: July 1, 2020.

17-25-315. Rules — Federally funded projects — Contractor qualifications.

(a)(1) The Contractors Licensing Board shall have the power to promulgate rules for the efficient enforcement of this chapter and shall also have the power to assign the right or give permission to any state agency, board, or commission to determine qualifications of a contractor solely for the purpose of submitting a bid to the state agency, board, or commission on projects involving federal aid funds before the contractor's being licensed by the Contractors Licensing Board.

(2) No state agency, board, or commission shall execute any construction contract involving federal aid funds unless and until the successful bidder for the project furnishes a certificate of license issued by the Contractors Licensing Board.

(b)(1) The Contractors Licensing Board shall have the power to provide by rule for any political subdivision or other political corporation to accept bids from unlicensed contractors for projects involving federal funds.

(2) However, no contractor shall submit a bid under this section before submitting application for licensure, and no political subdivision or political corporation shall execute any construction contract unless and until the successful bidder for the project furnishes an appropriate license issued by the Contractors Licensing Board.

History. Acts 1965, No. 150, § 11; 1985, No. 180, § 6; A.S.A. 1947, § 71-720; Acts 2019, No. 315, §§ 1381, 1382.

Amendments. The 2019 amendment

deleted “and regulations” following “rules” in (a)(1); and substituted “rule” for “regulation” in (b)(1).

17-25-316. Workers' compensation coverage required.

(a) A contractor required to be licensed or registered by the Contractors Licensing Board shall obtain and maintain workers' compensation coverage as required under the Workers' Compensation Law, § 11-9-101 et seq.

(b) The board shall require proof of current workers' compensation coverage before issuing or renewing a license or registration to a contractor required to have workers' compensation coverage under the Workers' Compensation Law, § 11-9-101 et seq.

(c)(1) If a contractor fails to maintain workers' compensation coverage or fails to maintain proof of current workers' compensation coverage on file with the board, the board may revoke or suspend the contractor's license or registration.

(2) A contractor's license or registration that has been revoked or suspended due to failure to maintain workers' compensation coverage may be reinstated upon receipt by the board of proof that the contractor has secured workers' compensation coverage.

(d) The board shall promulgate rules necessary to enforce this section.

History. Acts 2009, No. 327, § 5; 2019, No. 805, § 18[19].

A.C.R.C. Notes. Acts 2019, No. 805, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly finds that:

"(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

"(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

"(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry;

"(4) The Red Tape Reduction Working Group issued a final report to the Governor in the fall of 2018 with five (5) recommendations for substantive legislative reform, which are to:

"(A) Establish an expedited procedure for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation;

"(B) Extend Acts 2017, No. 781, to allow repeal of subsections of rules;

"(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

"(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

"(E) Establish a systematic process for review of:

"(i) New occupational licensure and occupational licensing entities; and

"(ii) Existing occupational licensure and occupational licensing entities;

"(5) Several occupational licenses are needlessly regulated and could be deregulated or de-licensed without causing detrimental harm to the citizens of the State of Arkansas and the economy of the this state;

"(6) Research has found that occupational licensing reduces access to jobs, inhibits geographic mobility, and raises the costs of services;

"(b) It is the intent of the General Assembly to amend the laws concerning contractors and to allow registration of subcontractors and eliminate the subcontractor licensing requirement."

Amendments. The 2019 amendment inserted "or registration" throughout the section; and inserted "or registered" in (a).

Effective Dates. Acts 2019, No. 805,
§ 22[23]: July 1, 2020.

SUBCHAPTER 4 — CONTRACTORS' BONDS

SECTION.

17-25-401. Definition.

17-25-402. Expenses — Disposition of funds.

17-25-404. Bond — Filing — Terms.

SECTION.

17-25-406. Notice of bond cancellation.

17-25-408. Failure to comply — Penalties — Enforcement.

Effective Dates. Acts 2019, No. 805,
§ 22[23]: July 1, 2020.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emer-

gency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

17-25-401. Definition.

(a)(1) As used in this subchapter, "contractor" means a person, firm, joint venture, partnership, copartnership, association, corporation, or other organization engaged in the business of the construction, alteration, dismantling, demolition, or repairing of roads, bridges, viaducts, sewers, water and gas mains, streets, disposal plants, water filters, tanks, towers, airports, buildings, dams, levees, canals, railways and rail facilities, oil and gas wells, water wells, pipelines, refineries, industrial or processing plants, chemical plants, power plants, electric, telephone, or any other type of energy or message transmission lines or equipment, or any other kind of improvement or structure.

(2) As used in this subchapter, "contractor" includes:

(A) All original, prime, and general contractors; and

(B) A contractor who is required to obtain a contractor's license or registration under the state licensing law of this state, § 17-25-101 et seq.

(b) However, when a person or entity acts as a contractor in the construction, erection, alteration, or repair of his or her own or its own property or of a single-family residence, or if the cost of the work to be done, including, but not limited to, labor and materials, is less than fifty thousand dollars (\$50,000), the person or entity shall not be deemed a contractor under this chapter.

History. Acts 1987, No. 162, § 1; 1989, No. 487, § 1; 1991, No. 783, § 1; 2015, No. 1048, § 4; 2017, No. 252, § 3; 2019, No. 805, § 19[20].

A.C.R.C. Notes. Acts 2019, No. 805, § 1, provided: “Legislative findings and intent.

“(a) The General Assembly finds that:

“(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

“(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

“(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry;

“(4) The Red Tape Reduction Working Group issued a final report to the Governor in the fall of 2018 with five (5) recommendations for substantive legislative reform, which are to:

“(A) Establish an expedited procedure for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation;

“(B) Extend Acts 2017, No. 781, to allow repeal of subsections of rules;

“(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

“(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

“(E) Establish a systematic process for review of:

“(i) New occupational licensure and occupational licensing entities; and

“(ii) Existing occupational licensure and occupational licensing entities;

“(5) Several occupational licenses are needlessly regulated and could be deregulated or de-licensed without causing detrimental harm to the citizens of the State of Arkansas and the economy of the this state;

“(6) Research has found that occupational licensing reduces access to jobs, inhibits geographic mobility, and raises the costs of services;

“(b) It is the intent of the General Assembly to amend the laws concerning contractors and to allow registration of subcontractors and eliminate the subcontractor licensing requirement.”

Amendments. The 2019 amendment substituted “As used in this subchapter” for “The term” at the beginning of (a)(2); and inserted “or registration” in (a)(2)(B).

Effective Dates. Acts 2019, No. 805, § 22[23]: July 1, 2020.

17-25-402. Expenses — Disposition of funds.

(a) All expenses incurred by the Contractors Licensing Board for the administration of this subchapter are authorized to be paid by the board.

(b)(1) All taxes, premiums, contributions, penalties, interest, and fines collected pursuant to this subchapter, except enforcement penalties, shall be distributed pro rata, based upon the amount of taxes, premiums, and contributions due to the Department of Finance and Administration, the Division of Workforce Services, the Workers’ Compensation Commission, or any city, county, or school district, or any other state agency or other political subdivision of the state, first to the extent of any taxes, premiums, and contributions due with any remainder applied to interest, penalties, and fines, in that order.

(2) All enforcement penalties assessed to a contractor pursuant to the provisions of this subchapter shall be paid directly to the board to defer the cost of enforcement.

(c) The board may employ such additional professional and clerical employees as may be necessary and pay salaries thereto as authorized by law.

History. Acts 1989, No. 487, §§ 6, 9; substituted "Division of Workforce Services" for "Department of Workforce Services" in (b)(1).
Amendments. The 2019 amendment

17-25-404. Bond — Filing — Terms.

(a)(1) Before commencing work or undertaking to perform any services or duties in the state, a contractor shall file with the Contractors Licensing Board as the depository agency a surety bond of a surety authorized to do business in this state or a cash bond.

(2) The bond shall be a condition of licensure, and a contractor's license shall not be released until the bond has been properly filed.

(b) The bond shall be:

(1) In a penal sum of ten thousand dollars (\$10,000);

(2) Payable to the State of Arkansas; and

(3) Conditioned on the contractor's complying with the tax laws of the State of Arkansas and, when applicable, the ordinances, rules, and regulations of any city, county, school district, state agency, or other political subdivision of the state, the Division of Workforce Services Law, § 11-10-101 et seq., the Workers' Compensation Law, § 11-9-101 et seq., and the provisions of this subchapter.

History. Acts 1987, No. 162, § 3; 1989, No. 487, § 3; 1991, No. 783, § 4; 1992 (1st Ex. Sess.), No. 37, § 2; 2005, No. 169, § 1; 2019, No. 910, § 469.

Amendments. The 2019 amendment substituted "Division of Workforce Services" for "Department of Workforce Services" in (b)(3).

17-25-406. Notice of bond cancellation.

(a)(1) Notice of bond cancellation shall be given to the Contractors Licensing Board in writing sixty (60) days before cancellation. The board shall notify the Department of Finance and Administration, the Division of Workforce Services, and the Workers' Compensation Commission of the notice of cancellation.

(2) It shall be the responsibility of each governmental agency to make any claims against the bond in accordance with state law for collection of any taxes, premiums, contributions, penalties, interest, or fines within the statute of limitations of the appropriate state law.

(b) A contractor's license that has become invalid due to bond cancellation may be reinstated upon receipt of a proper replacement bond.

History. Acts 1987, No. 162, § 4; 1989, No. 487, § 5; 1991, No. 783, § 6; 1992 (1st Ex. Sess.), No. 37, § 3; 2019, No. 910, § 470.

Amendments. The 2019 amendment substituted "Division of Workforce Services" for "Department of Workforce Services" in the second sentence of (a)(1).

17-25-408. Failure to comply — Penalties — Enforcement.

(a) The fact that a contractor is performing or has performed work in Arkansas and compliance as required by this subchapter has not been met shall constitute prima facie evidence of failure to comply.

(b) Upon notice to the contractor and a hearing thereon, if requested by the contractor or if deemed appropriate by the Contractors Licensing Board or any committee thereof, should it be determined that a violation exists, the board or committee may assess a penalty for noncompliance in a sum not to exceed five percent (5%) of the value of the contract performed, and upon a finding of a second or subsequent violation, the contractor may be assessed a penalty equal to ten percent (10%) of the value of the contract performed. Further, any contractor found in violation for a second or subsequent violation of this subchapter may lose its contractor’s license for a period of one (1) year. The board or committee may also issue an order to cease and desist the work pending compliance.

(c) Failure of a contractor to comply with the provisions of this subchapter shall be grounds for revocation of any license issued to the contractor by the board.

(d) Enforcement of the bond filing requirements contained herein shall be the responsibility of the board.

(e) The board shall have the power to make such rules for enforcement as it may consider appropriate and not in conflict with Arkansas law.

History. Acts 1987, No. 162, § 5; 1989, No. 487, §§ 6, 7; 1991, No. 783, § 8; 1992 (1st Ex. Sess.), No. 37, § 4; 2019, No. 315, § 1383.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (e).

SUBCHAPTER 5 — RESIDENTIAL CONTRACTORS COMMITTEE

SECTION.

- 17-25-502. Definitions.
- 17-25-505. License from committee required.
- 17-25-507. Applicant qualifications.
- 17-25-510. Hearings regarding violations — Emergency suspension.
- 17-25-512. Expiration of license — Fees.

SECTION.

- 17-25-513. Exemptions. [Effective January 1, 2022.]
- 17-25-515. Actions to enforce contracts in violation of this subchapter. [Effective January 1, 2022.]

Effective Dates. Acts 2019, No. 805, § 22[23]: July 1, 2020.
Acts 2021, No. 1072, § 4: Jan. 1, 2022.

17-25-502. Definitions.

As used in this subchapter:

(1) “Home improvement contractor” means any person, firm, partnership, copartnership, association, corporation, or other organization or any combination that attempts to or submits a bid or contracts, undertakes, or assumes charge in a supervisory capacity or otherwise manages the reconstruction, alteration, renovation, repair, modification, improvement, removal, demolition, or addition to any preexisting single family residence or the property and structures appurtenant thereto;

(2) “Residential building contractor” means any person, firm, partnership, copartnership, association, corporation, or other organization or any combination, which for a fixed price, commission, fee, or wage, attempts to or submits a bid to construct or contract or undertakes to construct or assumes charge in a supervisory capacity or otherwise manages the construction of a single family residence or the property and structures appurtenant thereto; and

(3) “Single family residence” means any project consisting of at least one (1) but not more than four (4) units of new construction for residential occupancy.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 2; 2017, No. 252, § 4; 2019, No. 386, §§ 13, 14.

Amendments. The 2019 amendment deleted former (1); and inserted “at least in (4) (now (3)).”

17-25-505. License from committee required.

(a) A person shall not act as a residential building contractor after July 1, 2001, unless licensed by the Residential Contractors Committee or exempted from licensure under this subchapter.

(b) A person shall not act as a home improvement contractor after January 1, 2012, unless:

(1) Licensed by the committee; or

(2) Exempt from licensure under this subchapter.

(c) Any person, firm, partnership, copartnership, association, corporation, limited liability company, or other organization that fails to procure a license as required under this subchapter shall be deemed guilty of a Class A misdemeanor with each day in violation of the requirement to constitute a separate offense.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 5; 2019, No. 805, § 20[21].

A.C.R.C. Notes. Acts 2019, No. 805, § 1, provided: “Legislative findings and intent.

“(a) The General Assembly finds that:

“(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

“(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department

of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

“(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry;

“(4) The Red Tape Reduction Working Group issued a final report to the Governor in the fall of 2018 with five (5) recom-

mendations for substantive legislative reform, which are to:

“(A) Establish an expedited procedure for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation;

“(B) Extend Acts 2017, No. 781, to allow repeal of subsections of rules;

“(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

“(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

“(E) Establish a systematic process for review of:

“(i) New occupational licensure and occupational licensing entities; and

“(ii) Existing occupational licensure and occupational licensing entities;

“(5) Several occupational licenses are needlessly regulated and could be deregulated or de-licensed without causing detrimental harm to the citizens of the State of Arkansas and the economy of the this state;

“(6) Research has found that occupational licensing reduces access to jobs, inhibits geographic mobility, and raises the costs of services;

“(b) It is the intent of the General Assembly to amend the laws concerning contractors and to allow registration of subcontractors and eliminate the subcontractor licensing requirement.”

Amendments. The 2019 amendment added (c).

Effective Dates. Acts 2019, No. 805, § 22[23]; July 1, 2020.

17-25-507. Applicant qualifications.

(a) In determining the qualifications of any applicant for original license or any renewal license, the Residential Contractors Committee shall consider, among other things, the following:

(1) Experience;

(2) Ability;

(3) The manner of performance of previous contracts;

(4) Financial condition;

(5) Any other fact tending to show ability and willingness to conserve the public health and safety; and

(6) Default in complying with the provisions of this subchapter or any other law of the state.

(b) The committee may limit a license issued by the committee to the character of work for which the applicant is qualified to perform.

(c) In addition to the offenses listed in § 17-3-102, the committee may consider the following offenses when determining fitness for licensure or registration of a contractor under this subchapter:

(1) Conviction of a crime with an element of dishonesty or fraud under the laws of this state, another state, or the United States;

(2) Conviction of voyeurism as prohibited in §§ 5-16-101 and 5-16-102;

(3) Conviction under the Arkansas Hot Check Law, § 5-37-301 et seq.; and

(4)(A) A crime or act that is substantially related to the qualifications, functions, or duties of a contractor.

(B) A crime or act may be deemed substantially related to the qualifications, functions, or duties of a contractor if, to a substantial degree, the crime or act evidences present or potential unfitness of a person applying for or holding a contractor's license or registration to perform the functions authorized by the license or registration.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 7; 2019, No. 990, § 28. **Amendments.** The 2019 amendment added (c).

17-25-510. Hearings regarding violations — Emergency suspension.

(a) The Residential Contractors Committee may conduct hearings regarding alleged violations of this subchapter or rules promulgated thereunder, and the hearings shall be conducted in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq. The committee shall within a reasonable time make findings and determinations as a result of the hearings.

(b) A contractor who, after notice and hearing, is found to have committed the following actions shall pay to the Contractors Licensing Board a civil penalty of not less than one hundred dollars (\$100) nor more than four hundred dollars (\$400) for each day that the violation occurred:

(1) Acting as a contractor without having a valid license in violation of this chapter;

(2) Using a contractor in violation of this chapter;

(3) Presenting or filing the license certificate of another;

(4) Giving false or forged evidence of any kind to the board in obtaining a certificate of license;

(5) Using an expired or revoked certificate of license;

(6) Giving false or fraudulent evidence of a contractor's license to another person or entity; or

(7) Committing other violations under this chapter.

(c) The committee may revoke the certificate of license of any contractor licensed under this subchapter who is found guilty of:

(1) Fraud or deceit in obtaining a license;

(2) Aiding or abetting a contractor or person to violate this chapter; or

(3) Gross negligence, incompetence, or misconduct in the contractor's business.

(d)(1) When abuse, neglect, or exploitation of an endangered person or an impaired person is found by the committee to have occurred, the committee may:

(A) State in writing that due to imminent physical or other harm to the endangered person or impaired person, the situation merits the emergency suspension of a license or registration; and

(B) Proceed with the suspension of a license or registration without a hearing or upon any abbreviated hearing that the committee finds practicable to suspend the license or registration.

(2) The emergency suspension shall become effective immediately, unless otherwise stated in the written documentation by the committee.

(3) The emergency suspension may be effective for a period of longer than thirty (30) days and the emergency suspension shall not be renewable.

(4) When an emergency suspension is ordered, a formal suspension or revocation proceeding shall be promptly instituted and acted upon in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 10; 2019, No. 315, § 1384; 2019, No. 805, § 21[22].

A.C.R.C. Notes. Acts 2019, No. 805, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly finds that:

"(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

"(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

"(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry;

"(4) The Red Tape Reduction Working Group issued a final report to the Governor in the fall of 2018 with five (5) recommendations for substantive legislative reform, which are to:

"(A) Establish an expedited procedure for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation;

"(B) Extend Acts 2017, No. 781, to allow repeal of subsections of rules;

"(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

"(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

"(E) Establish a systematic process for review of:

"(i) New occupational licensure and occupational licensing entities; and

"(ii) Existing occupational licensure and occupational licensing entities;

"(5) Several occupational licenses are needlessly regulated and could be deregulated or de-licensed without causing detrimental harm to the citizens of the State of Arkansas and the economy of the this state;

"(6) Research has found that occupational licensing reduces access to jobs, inhibits geographic mobility, and raises the costs of services;

"(b) It is the intent of the General Assembly to amend the laws concerning contractors and to allow registration of subcontractors and eliminate the subcontractor licensing requirement."

Amendments. The 2019 amendment by No. 315 substituted "rules" for "regulations" in the first sentence of (a).

The 2019 amendment by No. 805 added (d).

Effective Dates. Acts 2019, No. 805, § 22[23]: July 1, 2020.

17-25-512. Expiration of license — Fees.

(a)(1) All licenses issued by the Contractors Licensing Board shall expire one (1) year after the date of issuance unless otherwise provided by the Residential Contractors Committee.

(2) The committee may charge reasonable examination fees and delinquency fees and may charge a fee not to exceed one hundred dollars (\$100) for new licenses or renewal of a license.

(3) All fees and other moneys collected by the committee shall be disposed of as provided by § 17-25-205 and shall be used by the board to implement this subchapter.

(b) The committee may provide by rule for renewal of licenses for a period of one (1) year, two (2) years, or three (3) years with the fee not to exceed one hundred dollars (\$100) per year.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 12; 2021, No. 330, § 2. added (b) and redesignated the former section as (a)(1) through (a)(3).

Amendments. The 2021 amendment

17-25-513. Exemptions. [Effective January 1, 2022.]

The following shall be exempted from the licensing requirements of this subchapter:

(1) A person who acts as a residential building contractor in the construction of his or her residence unless he or she builds more than one (1) residence during any calendar year;

(2) The owner of a single family residence acting as his or her own home improvement contractor on his or her own property;

(3)(A) A person or entity acting as a residential building contractor or a home improvement contractor on any project, when the cost of the work done or to be done does not exceed two thousand dollars (\$2,000).

(B) Subdivision (3)(A) of this section shall not apply to a project in which the construction work necessary to complete the project is divided into separate contracts of amounts less than two thousand dollars (\$2,000);

(4) A subcontractor of a contractor licensed by the Residential Contractors Committee;

(5) A person or entity licensed as a contractor by another licensing agency, board, or commission of the State of Arkansas if the contractor is performing work within the scope of the license held by the person or entity; and

(6) A person or entity performing work as a roofing contractor as defined under § 17-25-601 et seq.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 13; 2021, No. 1072, § 1.

Publisher's Notes. For text of section effective until January 1, 2022, see the bound volume.

Amendments. The 2021 amendment added (6).

Effective Dates. Acts 2021, No. 1072, § 4: Jan. 1, 2022.

17-25-515. Actions to enforce contracts in violation of this subchapter. [Effective January 1, 2022.]

A contractor who performs work in violation of this subchapter shall not bring an action:

(1) In law or equity to enforce any provision of a contract entered into in violation of this subchapter; or

(2) For quantum meruit.

History. Acts 2011, No. 1208, § 15; 2021, No. 1072, § 2.

Publisher's Notes. For text of section effective until January 1, 2022, see the bound volume.

Amendments. The 2021 amendment

substituted “who performs work in violation” for “found guilty of a violation” in the introductory language.

Effective Dates. Acts 2021, No. 1072, § 4: Jan. 1, 2022.

SUBCHAPTER 6 — ROOFING CONTRACTOR REGISTRATION CERTIFICATE [EFFECTIVE JANUARY 1, 2022]

SECTION.

- 17-25-601. Definitions. [Effective January 1, 2022.]
- 17-25-602. Authority. [Effective January 1, 2022.]
- 17-25-603. Roofing contractor registration certificate from committee required. [Effective January 1, 2022.]
- 17-25-604. Application for roofing contractor registration certificate. [Effective January 1, 2022.]
- 17-25-605. Applicant qualifications. [Effective January 1, 2022.]
- 17-25-606. Name of roofing contractor holding roofing contractor registration certificate.

SECTION.

- [Effective January 1, 2022.]
- 17-25-607. Hearings regarding violations. [Effective January 1, 2022.]
- 17-25-608. Appeal from committee decision. [Effective January 1, 2022.]
- 17-25-609. Expiration of certification — Fees. [Effective January 1, 2022.]
- 17-25-610. Exemptions. [Effective January 1, 2022.]
- 17-25-611. Actions to enforce contracts in violation of subchapter. [Effective January 1, 2022.]

Effective Dates. Acts 2021, No. 1072, § 4: Jan. 1, 2022.

17-25-601. Definitions. [Effective January 1, 2022.]

As used in this subchapter:

- (1) “Home improvement contractor” means a home improvement contractor licensed under § 17-25-501 et seq.;
 - (2) “Nonresident roofing contractor” means a roofing contractor that:
 - (A) Has not established and maintained a place of business as a roofing contractor in this state within the preceding year;
 - (B) Claims residency in another state; or
 - (C) Has not submitted an income tax return as a resident of this state within the preceding year;
 - (3) “Residential building contractor” means a residential building contractor licensed under § 17-25-501 et seq.; and
 - (4)(A) “Roofing contractor” means a person, including a subcontractor or nonresident roofing contractor, that in the ordinary course of business:
 - (i) Engages in the business of residential roofing services for a fee;
- or

(ii) Offers to engage in or solicits residential roofing-related services, including construction, installation, renovation, repair, maintenance, alteration, and waterproofing.

(B) "Roofing contractor" does not include a person that is:

(i) Engaged in the demolition of a structure or the cleanup of construction waste and debris that contains roofing material;

(ii) Working under the direct supervision of a roofing contractor and that is hired by the roofing contractor as an employee or day laborer; or

(iii) Exempt from the requirements of this subchapter.

History. Acts 2021, No. 1072, § 3.

Effective Dates. Acts 2021, No. 1072,

§ 4: Jan. 1, 2022.

17-25-602. Authority. [Effective January 1, 2022.]

The Residential Contractors Committee may:

(1) Issue, modify, suspend, and revoke a roofing contractor registration certificate issued by the committee;

(2) Establish qualifications for roofing contractor registration certificates issued by the committee;

(3) Enforce this subchapter and the rules of the committee;

(4) Issue rules necessary for the implementation of this subchapter;

(5) Levy civil penalties under this subchapter;

(6) Issue orders of abatement for violations of this subchapter in the same manner and to the same extent as authorized for the Contractors Licensing Board under § 17-25-103; and

(7) Seek a civil remedy available to the board.

History. Acts 2021, No. 1072, § 3.

Effective Dates. Acts 2021, No. 1072,

§ 4: Jan. 1, 2022.

17-25-603. Roofing contractor registration certificate from committee required. [Effective January 1, 2022.]

(a) A person shall not act as a roofing contractor after July 1, 2021, unless a person is:

(1) Granted a roofing contractor registration certificate by the Residential Contractors Committee; or

(2) Exempt from certification under this subchapter.

(b) A person that fails to procure a roofing contractor registration certificate as required under this subchapter is upon conviction guilty of a Class A misdemeanor with each day in violation of the requirement to constitute a separate offense.

History. Acts 2021, No. 1072, § 3.

Effective Dates. Acts 2021, No. 1072,

§ 4: Jan. 1, 2022.

17-25-604. Application for roofing contractor registration certificate. [Effective January 1, 2022.]

(a) An application for a roofing contractor registration certificate shall be made on a form prescribed by the Residential Contractors Committee.

(b) To obtain a roofing contractor registration certificate, an applicant shall under oath include the following information on the application:

(1) A statement that the applicant requesting the roofing contractor registration certificate is at least eighteen (18) years of age;

(2) The applicant's:

(A) Name;

(B) Physical address; and

(C) Telephone number;

(3) The name of the applicant's business, including any fictitious business names;

(4) The address of the applicant's business;

(5) The name of all other persons authorized to act for the applicant's business and the registered agent of the applicant's business; and

(6) A statement that the applicant:

(A) Will comply with all federal, state, and local laws and rules;

(B) Is or is not registered, certified, or licensed as a roofing contractor in another state; and

(C) Has or has not been the subject of a disciplinary action in this state or another state as a roofing contractor.

(c) If the applicant for a roofing contractor registration certificate is a nonresident roofing contractor, the applicant shall designate a registered agent of service in the State of Arkansas.

(d) The application for a roofing contractor registration certificate shall have the following information attached:

(1) A surety bond in the minimum amount of fifteen thousand dollars (\$15,000);

(2) Proof of workers' compensation coverage as required under § 11-9-401 et seq.; and

(3) Any other information required by the committee.

History. Acts 2021, No. 1072, § 3.

Effective Dates. Acts 2021, No. 1072,

§ 4: Jan. 1, 2022.

17-25-605. Applicant qualifications. [Effective January 1, 2022.]

(a) The Residential Contractors Committee may limit a roofing contractor registration certificate issued by the committee to the character of work that the applicant is qualified to perform.

(b) In addition to the offenses listed in § 17-3-102, the committee may consider the following convictions when determining an applicant's fitness for a roofing contractor registration certificate under this subchapter:

(1) Conviction of a crime with an element of dishonesty or fraud under the laws of this state, another state, or the United States;

(2) Conviction of a voyeurism offense as prohibited in §§ 5-16-101 and 5-16-102;

(3) Conviction under the Arkansas Hot Check Law, § 5-37-301 et seq.; and

(4)(A) Conviction of a crime or act that is substantially related to the qualifications, functions, or duties of a roofing contractor.

(B) A crime or act is substantially related to the qualifications, functions, or duties of a roofing contractor if, to a substantial degree, the crime or act indicates a present or potential unfitness of a person applying for or holding a roofing contractor registration certificate to perform the functions authorized by the roofing contractor registration certificate.

History. Acts 2021, No. 1072, § 3.

Effective Dates. Acts 2021, No. 1072,

§ 4: Jan. 1, 2022.

17-25-606. Name of roofing contractor holding roofing contractor registration certificate. [Effective January 1, 2022.]

(a) A roofing contractor that obtains a roofing contractor registration certificate under this subchapter may act as a roofing contractor only in the name under which the Residential Contractors Committee granted the roofing contractor registration certificate.

(b) A roofing contractor shall submit a written update to the committee if the information submitted with the application for a roofing contractor registration certificate under this subchapter changes.

History. Acts 2021, No. 1072, § 3.

Effective Dates. Acts 2021, No. 1072,

§ 4: Jan. 1, 2022.

17-25-607. Hearings regarding violations. [Effective January 1, 2022.]

(a) The Residential Contractors Committee may conduct hearings regarding alleged violations of this subchapter or rules promulgated under this subchapter, and the hearings shall be conducted in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b) The committee shall within a reasonable time make findings and determinations as a result of the hearings.

(c) A roofing contractor that, after notice and hearing, is found to have committed one (1) or more of the following actions shall pay to the Contractors Licensing Board a civil penalty of not less than one hundred dollars (\$100) nor more than four hundred dollars (\$400) for each day that the violation occurred:

(1) Acting as a roofing contractor without having a valid roofing contractor registration certificate in violation of this subchapter;

(2) Using a roofing contractor in violation of this subchapter;

(3) Presenting or filing a roofing contractor registration certificate of another roofing contractor;

(4) Giving false or forged evidence to the board in order to obtain a roofing contractor registration certificate;

(5) Using an expired or revoked roofing contractor registration certificate;

(6) Giving false or fraudulent evidence of a roofing contractor's roofing contractor registration certificate to another person; or

(7) Committing other violations under this subchapter.

(d) The committee may revoke the roofing contractor registration certificate of a roofing contractor that is found guilty of:

(1) Fraud or deceit in obtaining a roofing contractor registration certificate;

(2) Aiding or abetting a roofing contractor or other person to violate this subchapter;

(3) Gross negligence, incompetence, or misconduct in the roofing contractor's business;

(4) Abandoning a roofing contract without legal grounds after a consideration in payment has been tendered;

(5) Mishandling funds or property entrusted to the roofing contractor;

(6) Engaging in fraudulent or deceptive acts or practices;

(7) Misrepresenting products, services, or qualifications;

(8) Engaging in roofing services without obtaining a proper permit as may be required by a local authority; or

(9) Damaging or injuring a person or property while performing roofing services under a valid roofing contractor registration certificate for which the roofing contractor's liability insurance, workers' compensation coverage, or other method of remuneration for injuries does not make the injured party whole.

(e)(1) When abuse, neglect, or exploitation of an endangered person or an impaired person by a roofing contractor is found by the committee to have occurred, the committee may:

(A) State in writing that due to imminent physical or other harm to the endangered person or impaired person, the situation merits the emergency suspension of the roofing contractor registration certificate of the roofing contractor; and

(B) Proceed with the suspension of the roofing contractor registration certificate without a hearing or upon an abbreviated hearing that the committee finds practicable to suspend the roofing contractor registration certificate.

(2) An emergency suspension under this subsection shall be effective immediately, unless otherwise stated in the written documentation by the committee.

(3) An emergency suspension under this subsection may be effective for a period of more than thirty (30) days, and the emergency suspension shall not be renewable.

(4) When an emergency suspension is ordered under this subsection, a formal suspension or revocation proceeding shall be promptly instituted and acted upon in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 2021, No. 1072, § 3.

Effective Dates. Acts 2021, No. 1072,

§ 4: Jan. 1, 2022.

17-25-608. Appeal from committee decision. [Effective January 1, 2022.]

(a) A person aggrieved by an action or decision of the Residential Contractors Committee may appeal to the Contractors Licensing Board within ten (10) calendar days after the action or decision under procedures prescribed by the board.

(b) A person aggrieved shall be granted an opportunity to address the board regarding the committee's actions, and the final decision of the board shall be binding upon the committee.

History. Acts 2021, No. 1072, § 3.

Effective Dates. Acts 2021, No. 1072,

§ 4: Jan. 1, 2022.

17-25-609. Expiration of certification — Fees. [Effective January 1, 2022.]

(a) A roofing contractor registration certificate issued by the Residential Contractors Committee shall expire one (1) year after the date of issuance unless otherwise provided by the committee.

(b) The committee may charge reasonable delinquency fees and may charge a fee not to exceed one hundred dollars (\$100) for a new roofing contractor registration certificate or the renewal of a roofing contractor registration certificate.

(c) All fees and other moneys collected by the committee shall be disposed of as provided by § 17-25-205 and shall be used by the committee to implement this subchapter.

History. Acts 2021, No. 1072, § 3.

Effective Dates. Acts 2021, No. 1072,

§ 4: Jan. 1, 2022.

17-25-610. Exemptions. [Effective January 1, 2022.]

The following are exempt from the registration requirements of this subchapter:

(1) A person that acts as a roofing contractor in the construction of his or her residence unless he or she builds more than one (1) residence during a calendar year;

(2) The owner of a single-family residence acting as his or her own roofing contractor on his or her own property;

(3) A person licensed as a contractor by a licensing agency, board, or commission of the State of Arkansas if the person is performing work within the scope of the license held by the person;

(4) A contractor licensed by the Contractors Licensing Board if the contractor holds a classification that authorizes the contractor to perform roofing as defined under § 17-25-601; and

(5) A home improvement contractor or residential building contractor if the home improvement contractor or residential building contractor:

(A) Is in compliance with all requirements to do business in the State of Arkansas, including requirements of a municipality or county applicable to the location in which the home improvement contractor or residential building contractor intends to do business that involves roofing services;

(B) Engages in roofing services in addition to construction, installation, renovation, repair, maintenance, alteration, or waterproofing services on the project and the roofing services do not constitute more than fifty percent (50%) of the total project cost; and

(C) Does not authorize agents, employees, or representatives of the home improvement contractor or the residential building contractor to engage in door-to-door sales of roofing services.

History. Acts 2021, No. 1072, § 3.

Effective Dates. Acts 2021, No. 1072,

§ 4: Jan. 1, 2022.

17-25-611. Actions to enforce contracts in violation of subchapter. [Effective January 1, 2022.]

A roofing contractor that performs work or enters into a contract in violation of this subchapter shall not bring an action:

(1) In law to enforce a provision of a contract entered into with a consumer in violation of this subchapter; or

(2) For quantum meruit.

History. Acts 2021, No. 1072, § 3.

Effective Dates. Acts 2021, No. 1072,

§ 4: Jan. 1, 2022.

CHAPTER 26

COSMETOLOGY AND RELATED OCCUPATIONS

SUBCHAPTER.

1. GENERAL PROVISIONS.

SUBCHAPTER.

2. COSMETOLOGY TECHNICAL ADVISORY COMMITTEE.
3. LICENSING.
4. COSMETOLOGICAL SCHOOLS AND ESTABLISHMENTS.
6. BODY ART.
7. PERMANENT COSMETICS AND SEMIPERMANENT COSMETICS.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 17-26-102. Definitions.
17-26-103. Scope of chapter.

SECTION.

- 17-26-105. Grounds for disciplinary action.

17-26-102. Definitions.

(a) As used in this chapter:

(1) "Aesthetician" means any person who engages in the practice of beautifying the body by cleaning, waxing, externally manipulating, or stimulating the body by means of the hands, devices, apparatus, or appliances with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams;

(2) "Cosmetological establishment" means any premises, building, part of a building, or mobile salon in which is practiced a branch or a combination of branches of cosmetology or the occupation of a cosmetologist except:

(A) The branch of manicuring as practiced in barbershops licensed by the Cosmetology Technical Advisory Committee and complying with the provisions of this chapter;

(B) Nursing facilities as defined under § 20-10-1401; or

(C) An establishment that only provides the washing, cleansing, drying, blow drying, combing, brushing, or styling of the hair of any person, but does not provide other services under the art of cosmetology as defined in subsection (b) of this section;

(3) "Cosmetologist" means any person who:

(A) Engages in the practice of cosmetology in a licensed cosmetological establishment, except the branch of electrolysis; or

(B) Services a client in premises not licensed as a cosmetological establishment when the services rendered involve a special event in which the cosmetology service is to be performed for an on-site participant of the event;

(4) "Electrologist" means any person who permanently removes hair from or destroys hair on the human body for beautification by the use of an electric needle or by the use of any other kinds of devices or appliances designed to permanently remove hair from the human body;

(5) "Manager-operator" means a licensed cosmetologist authorized to engage in the practice of cosmetology, independent of personal supervision in a duly licensed establishment;

(6) "Manicurist" means any person who engages in the occupation of manicuring the nails of any person by cutting, trimming, polishing, coloring, tinting, cleansing, filing, buffing, pushing, extending, protect-

ing, wrapping, covering, building, or beautifying the nails or performing any other similar work upon the nails of any person by any means, including the softening of the arms, hands, feet, or ankles of any person by use of hands, mechanical or electrical apparatus or appliances, cosmetic or chemical preparations, antiseptics, lotions, or creams or by massaging, cleansing, manipulating, or stimulating the arms, hands, feet, or ankles of any person;

(7) "Mobile salon" means a self-contained, self-supporting, enclosed unit that:

(A) Is at least twenty-four feet (24') in length;

(B) May be transported from one location to another;

(C) Has a base location at the home, salon, or office of the owner of the mobile salon;

(D) Is licensed as a cosmetological establishment for the practice of a branch or a combination of branches of cosmetology or the occupation of a cosmetologist licensed by the Department of Health; and

(E) Complies with rules established by the department;

(8) "Postsecondary school of cosmetology" means a school of cosmetology that offers a postsecondary curriculum approved by the department;

(9) "Registered hairstylist" means an individual who is registered with the department and who only provides washing, cleansing, drying, blow drying, combing, brushing, or styling services for the hair of any person, but does not provide other services under the art of cosmetology as described in subsection (b) of this section;

(10) "School of cosmetology" means a person, firm, or corporation licensed by the state and exacting a fee for the teaching of any branch of cosmetology; and

(11) "Student" means any person enrolled and engaged in learning or acquiring a knowledge of the occupation of cosmetology or any branch of cosmetology in a licensed school of cosmetology under a licensed instructor.

(b) The art of cosmetology includes one (1) or more of the following practices:

(1) Chemically treating, dressing, curling, waving, machineless permanent waving, permanent waving, cleansing, cutting, singeing, bleaching, tinting, coloring, straightening, dyeing, brushing, beautifying, or otherwise treating by any means the hair of any person or wigs or hairpieces;

(2) Externally manipulating, cleaning, waxing, or stimulating the body by means of the hands, devices, apparatus, or appliances with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams;

(3) Beautifying the body by use of cosmetic preparations, antiseptics, tonics, lotions, or creams;

(4) Temporarily removing superfluous hair from the body of any person by the use of depilatories or by the use of tweezers, chemicals, or preparations or by the use of devices or appliances of any kind or description, except by the use of light waves, commonly known as rays;

(5) Cutting, trimming, polishing, tinting, coloring, cleansing, or manicuring the nails of any person; or

(6) Massaging, cleansing, or beautifying the nails of any person.

(c) The branch of electrolysis, a practice of cosmetology requiring a separate course of training as prescribed by § 17-26-306, includes permanently removing hair from or destroying hair on the human body by the use of an electric needle or by the use of any other kind of device or appliance designed to permanently remove hair from the human body.

History. Acts 1955, No. 358, Art. 2, § 2; 1955, No. 358, Art. 3, § 1; 1955, No. 358, Art. 4, § 1; 1955, No. 358, Art. 5, § 1; 1955, No. 358, Art. 7, § 1; 1955, No. 358, Art. 8, § 12; 1955, No. 358, Art. 12, § 1; 1965, No. 403, § 9; 1969, No. 400, §§ 1, 2; 1985, No. 215, § 4; A.S.A. 1947, §§ 71-827, 71-831, 71-833, 71-837, 71-848, 71-863, 71-875; Acts 1995, No. 771, § 1; 1997, No. 512, § 1; 2003, No. 680, § 2; 2007, No. 223, § 1; 2013, No. 1198, § 1; 2017, No. 1081, §§ 1, 2; 2021, No. 957, § 2.

A.C.R.C. Notes. Acts 2021, No. 957, § 1, provided: "Title. This act shall be known and may be cited as 'Annalynn's Law'."

Amendments. The 2021 amendment added (a)(2)(C) and (a)(9), and redesignated the remaining subdivisions accordingly; substituted "one (1) or more" for "any and all and any combination" in the introductory language of (b); substituted "Chemically treating" for "Arranging" in (b)(1); and made stylistic changes.

17-26-103. Scope of chapter.

(a) The following persons are exempt from this chapter:

(1) All persons authorized by the laws of this state to practice medicine, surgery, dentistry, pharmacy, osteopathy, chiropractic, naturopathy, or podiatry;

(2) Barbers insofar as their usual and ordinary vocation and profession is concerned;

(3) Employees employed to render cosmetological services in the course of and incidental to the business of employers engaged in the theatrical, radio, television, or motion picture production industry;

(4) Individuals and employees rendering cosmetological services in the course of, in connection with, and incidental to the preparation of bodies for burial, or the business of embalmers and undertakers;

(5) Direct-care staff as defined in § 20-10-1401 who provide routine personal hygiene and related daily care services to residents of nursing facilities as defined in § 20-10-1401 and for which the fee is included in the monthly facility charges;

(6) Relatives of residents of nursing facilities as defined in § 20-10-1401 who provide cosmetological services to a related resident of a nursing facility;

(7)(A) Registered hairstylists that only provide the washing, cleansing, drying, blow drying, combing, brushing, or styling of the hair of any person.

(B) A registered hairstylist in a cosmetology establishment may provide services only when supervised by a licensed cosmetologist who is available to address health and safety issues that may arise in providing services to a consumer; and

(8) An individual who only cleanses the hair of any person for compensation.

(b) This chapter does not prohibit any practice within its scope in cases of emergency, nor the administration of any practice outside of a licensed school of cosmetology or cosmetological establishment when necessary because of the illness or other physical incapacitation of the recipient of the service and when performed by a licensee obtained for the purpose from a licensed cosmetological establishment.

(c) This chapter does not prohibit the recommendation, demonstration, administration, or sale of cosmetics by any person not claiming to be a cosmetologist.

History. Acts 1955, No. 358, Art. 2, § 1, provided: "Title. This act shall be §§ 3, 4; A.S.A. 1947, §§ 71-828, 71-829; known and may be cited as 'Annalynn's Acts 2003, No. 680, § 3; 2007, No. 223, Law'." § 2; 2021, No. 957, § 3.

Amendments. The 2021 amendment

A.C.R.C. Notes. Acts 2021, No. 957, added (a)(7) and (a)(8).

17-26-105. Grounds for disciplinary action.

The grounds for disciplinary action are as follows:

(1) Failure of a person, firm, or corporation operating a cosmetological establishment or school of cosmetology or engaged in the practice of cosmetology or any of its branches to comply with the requirements of this chapter and the rules of the Cosmetology Technical Advisory Committee;

(2) Failure to comply with the rules governing health and safety adopted by the committee and approved by the State Board of Health for the regulation of cosmetological establishments, schools of cosmetology, or the practice of the occupation of cosmetician or cosmetologist;

(3) Obtaining practice in cosmetology or any branch thereof or money or any other thing of value by fraudulent misrepresentation;

(4) Gross malpractice;

(5) Continued practice by a person knowingly having an infectious or contagious disease;

(6) Habitual drunkenness or habitual addiction to the use of morphine or any habit-forming drug;

(7) Advertisement by means of knowingly false or deceptive statements;

(8) Permitting a certificate of registration or license to be used when the holder is not personally, actively, and continuously engaged in business;

(9) Failure to display the license;

(10) Conviction under the laws of the United States or any state or territory of the United States of a crime that is:

(A) A felony listed under § 17-3-102, as evidenced by a certified copy of a court record or by license application; or

(B) A misdemeanor involving dishonesty or is in any way related to the practice or teaching of the cosmetology industry,

unless the applicant or licensee can demonstrate to the board's satisfaction that the applicant or licensee has been sufficiently rehabilitated to warrant the public trust;

(11) Engaging, outside of a licensed school of cosmetology or cosmetological establishment and for compensation in any form whatever, in any practice for which a license is required under this chapter, except that when such a service is necessary because of the illness or other physical incapacity of the person with respect to whom it is performed, it may be performed by a licensee obtained for the purpose from a licensed cosmetological establishment;

(12) Failure to wear clean outer garments, as prescribed by the committee, to allow the safe and hygienic practice of cosmetology or any branch thereof;

(13) Any other unfair or unjust practice, method, or dealing that the committee finds may justify such an action or failure to follow guidelines concerning the use of chemicals or equipment as established by rule of the committee; or

(14) Fraud or deception in procuring a license.

History. Acts 1955, No. 358, Art. 11, § 3; A.S.A. 1947, § 71-873; Acts 2003, No. 595, § 1; 2007, No. 223, § 4; 2019, No. 315, § 1385; 2019, No. 990, § 29.

Amendments. The 2019 amendment by No. 315 substituted "rules" for "regulations" in (1).

The 2019 amendment by No. 990 added "is" in (10); substituted "A felony listed under § 17-3-102, as evidenced" for "Is a felony or misdemeanor, as evidenced" in (10)(A); and substituted "A misdemeanor involving dishonesty" for "Involves dishonesty" in (10)(B).

SUBCHAPTER 2 — COSMETOLOGY TECHNICAL ADVISORY COMMITTEE

SECTION.

17-26-201. Creation — Members.

17-26-201. Creation — Members.

(a) There is created the Cosmetology Technical Advisory Committee.

(b)(1) The committee shall consist of nine (9) members appointed by the State Board of Health to two-year terms.

(2) A member may be removed from the committee by the board for cause.

(3) A member shall not serve more than ten (10) years on the committee.

(c) The committee shall be composed of the following representatives from within the cosmetology industry who are at least twenty-five (25) years of age:

(1) One (1) member shall be a licensed cosmetologist actively engaged in practicing the art of cosmetology for at least five (5) years at the time of appointment;

(2) One (1) member shall be a licensed nail technician;

(3) One (1) member shall be an owner of a licensed school of cosmetology or shall be a director of cosmetology at a state-supported school;

- (4) One (1) member shall be a licensed aesthetician;
- (5) Three (3) members shall represent the cosmetology industry at large or a related field;
- (6) One (1) member shall represent the permanent and semipermanent cosmetic industry; and
- (7) One (1) member shall represent the body art industry.
- (d)(1) A member of the committee shall not be directly or indirectly connected with the wholesale business of the manufacture, rental, sale, or distribution of cosmetological appliances or supplies.
- (2) A member of the committee shall not have a contract or a pending bid for a contract with the Department of Health concerning cosmetology.
- (e) Only two (2) members of the committee may be appointed from any one (1) congressional district.
- (f) Vacancies occurring during a term shall be filled for the unexpired term.
- (g) Before entering upon the discharge of his or her duties, each member shall make and file with the Secretary of State the oath of office prescribed by Arkansas Constitution, Article 19, § 20.
- (h) Each member of the committee may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.
- (i) The board shall promulgate by rule the duties and powers of the committee.

History. Acts 1955, No. 358, Art. 1, §§ 2, 3, 11; 1973, No. 566, § 2; 1975, No. 532, §§ 1, 2; 1977, No. 420, § 1; 1983, No. 131, §§ 1-3, 5; 1983, No. 135, §§ 1-3, 5; 1985, No. 215, § 1; A.S.A. 1947, §§ 6-623 — 6-626, 71-815, 71-816, 71-824; Acts 1997, No. 250, § 133; 2001, No. 1553, § 24; 2003, No. 69, § 6; 2007, No. 223, § 5; 2007, No. 244, § 1; 2009, No. 4, § 3; 2009, No. 381, § 1; 2019, No. 990, § 30; 2021, No. 900, § 2.

Amendments. The 2019 amendment deleted “of good moral character and who are” preceding “at least” in the introductory language of (c).

The 2021 amendment substituted “nine (9) members” for “seven (7) members” in (b)(1); and added (c)(6) and (c)(7).

SUBCHAPTER 3 — LICENSING

SECTION.	SECTION.
17-26-306. Electrologists — Prerequisites to examination.	17-26-324. Registered hairstylist.
17-26-319. Expiration, renewal, and reinstatement.	

17-26-306. Electrologists — Prerequisites to examination.

The Department of Health shall admit to examination for a license as an electrologist a person who has made application to the department in proper form, has paid the fee required, and who:

- (1) Is not less than eighteen (18) years of age;
- (2) Has completed the twelfth grade at an accredited senior high school in the public schools of this state or its equivalent; and
- (3) Has completed one (1) of the following:

(A) A course of three hundred fifty (350) hours of practical training as a student in conjunction with a course of one thousand five hundred (1,500) hours in cosmetology or for a licensed cosmetologist;

(B) A course of six hundred (600) hours of practical training as a student, when not in conjunction with a regular course in cosmetology or for a licensed cosmetologist, extending over a period of not less than four (4) months under the immediate supervision of a licensed electrologist instructor in a school of cosmetology;

(C) The prescribed course of study in electrology under the laws of another state whose licensing requirements are equal to or stricter than those in Arkansas; or

(D) Training and practice in electrology for a period as shall be specified by rules of the State Board of Health.

History. Acts 1955, No. 358, Art. 4, § 2; 1965, No. 403, § 2; 1985, No. 215, § 3; A.S.A. 1947, § 71-834; Acts 2007, No. 223, § 17; 2009, No. 4, § 6; 2019, No. 386, § 15.

Amendments. The 2019 amendment substituted "at" for "or" in (2).

17-26-319. Expiration, renewal, and reinstatement.

(a) Licenses of cosmetologists, instructors, electrologists, aestheticians, and manicurists shall expire on the licensee's birthday on a biennial basis.

(b) Licenses of schools and establishments shall expire in one (1) of the following ways at the choice of the school or establishment owner:

(1) Annually on December 31;

(2) Biennially on December 31; or

(3) Biennially on the owner's birthday in conjunction with the individual license.

(c) Application for license renewals shall be filed and the fee paid not later than thirty (30) days following the expiration date established in subsection (a) of this section.

(d) A licensee whose license has lapsed for failure to renew and who is or was under the direct supervision of a physician for an extended or long-term condition may request from the Department of Health a waiver of the reinstatement fee.

(e) After five (5) years from the date of its expiration, a license may be reinstated upon the filing of an application as the department may prescribe, the payment of the examination fee, and the passing of the examination required by the department.

(f) The department is authorized and directed to renew, upon application and the payment of the necessary fees, the license of a cosmetologist, manicurist, aesthetician, instructor, or electrologist who is also a veteran of war who possessed the license but permitted it to lapse. The renewal license shall be issued without the applicant's being required to submit to any examination or to meet any additional schooling requirements.

(g)(1) A licensee who is sixty-five (65) years of age or older and has been actively engaged in the practice or teaching of cosmetology for thirty (30) or more years may apply for a lifetime license.

(2) The fee for a lifetime license shall be established by rule of the department.

(3) The receipt of a lifetime license shall not exempt a licensee from:

(A) Complying with any applicable law or rule; and

(B) Receiving a penalty for failing to comply with an applicable law or rule.

History. Acts 1955, No. 358, Art. 12, §§ 1, 2; 1963, No. 502, § 1; 1965, No. 403, § 9; 1985, No. 215, § 15; A.S.A. 1947, §§ 71-875, 71-876, 71-883; Acts 1987, No. 465, §§ 2, 3; 2007, No. 223, § 28; 2009, No. 4, § 11; 2019, No. 386, § 16.

Amendments. The 2019 amendment substituted “department” for “board” in (g)(2).

17-26-324. Registered hairstylist.

(a) The Department of Health:

(1) Shall develop a registration application process for a registered hairstylist;

(2) May charge each registrant a fee of not more than ten dollars (\$10.00) to cover the department’s costs of maintaining the registration; and

(3) Shall not require registrants to provide proof of training at a school of cosmetology.

(b) This section shall not be construed to:

(1) Exempt a registered hairstylist from the requirements of a general business license or any laws relating to the payment of taxes; or

(2) Prohibit private certification of any provider.

History. Acts 2021, No. 957, § 4.

known and may be cited as ‘Annalynn’s Law’.”

A.C.R.C. Notes. Acts 2021, No. 957, § 1, provided: “Title. This act shall be

SUBCHAPTER 4 — COSMETOLOGICAL SCHOOLS AND ESTABLISHMENTS

SECTION.

17-26-403. School of cosmetology — Application to operate — License.

17-26-412. School term — Cosmetology curriculum.

SECTION.

17-26-418. Cosmetology courses in public schools.

Effective Dates. Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act estab-

lishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the

fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

17-26-403. School of cosmetology — Application to operate — License.

(a) Schools of cosmetology shall be conducted as provided in this subchapter.

(b)(1) A person, firm, or corporation desiring to conduct a school of cosmetology shall apply to the Department of Health for approval.

(2) The Division of Elementary and Secondary Education shall not be required to apply to the department for approval.

(3)(A) When an application is made after January 1, the portion of the registration fee that the unexpired number of months in the year bears to the entire year, including the month the application is made, shall be paid to the department.

(B) In such a case the department shall issue a license for the fractional part of the year.

(c) The license authorizes the school of cosmetology holding it to transact operations in this state during the year or fraction thereof for which it is issued subject to the rules of the department.

(d) Nothing in this section shall be construed as authorization or permission to conduct a school of cosmetology without a valid, existing, and unexpired license.

(e) A license issued by the department shall designate on the written license whether the school of cosmetology is licensed as:

(1) A school of cosmetology; or

(2) A postsecondary school of cosmetology.

History. Acts 1955, No. 358, Art. 8, §§ 1, 2; 1965, No. 403, § 12; 1973, No. 566, § 3; A.S.A. 1947, §§ 71-852, 71-853; Acts 2007, No. 223, § 34; 2009, No. 4, § 15; 2013, No. 1198, § 3; 2019, No. 910, § 2239.

Amendments. The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of Education" in (b)(2).

17-26-412. School term — Cosmetology curriculum.

(a) Each school shall maintain a school term of not less than one thousand five hundred (1,500) hours, instruction of which shall not be in excess of ten (10) hours per day and six (6) days per week during the course. The school shall maintain a course of practical training and technical instruction equal to the requirements for examination for a license as a cosmetologist.

(b) It shall so arrange the courses devoted to each branch or practice of cosmetology as the Department of Health may from time to time adopt as the course to be followed by the schools.

(c) The curriculum described in this section may be completed through supervisory learning in a classroom, online, or on a distance education platform for up to fifty percent (50%) of the student's training program as authorized by the United States Department of Education as existed on January 1, 2021.

History. Acts 1955, No. 358, Art. 8, § 8; 1961, No. 490, § 6; 1965, No. 403, § 3; A.S.A. 1947, § 71-859; Acts 2007, No. 223, § 41; 2009, No. 4, § 22; 2009, No. 704, § 1; 2021, No. 724, § 2.

Amendments. The 2021 amendment added (c).

17-26-418. Cosmetology courses in public schools.

(a)(1) All public educational institutions operating cosmetological schools shall comply with the standards and rules promulgated by the State Board of Health.

(2)(A) However, the responsibility for approval of cosmetological schools in public educational institutions shall be the sole responsibility of the Arkansas Higher Education Coordinating Board.

(B) In approving a cosmetological school in a public educational institution, the Arkansas Higher Education Coordinating Board shall use the same application process and requirements as the State Board of Health uses for approval of all other cosmetological schools.

(b) Such schools shall not be required to obtain a license as prescribed in this chapter.

(c) Each person who successfully completes the courses in cosmetology given in a school under the public school system of this state is eligible for a license under this chapter the same as though he or she had graduated from a licensed private school of cosmetology approved by the State Board of Health. For this purpose, successful completion of courses in cosmetology given in public schools equal to and the equivalent of the courses required to be given in licensed private schools of cosmetology approved by the State Board of Health shall be deemed to be the fulfillment of the requirements of this chapter in regard to completion of courses in licensed schools of cosmetology approved by the State Board of Health.

History. Acts 1955, No. 358, Art. 8, § 14; 1965, No. 403, § 8; 1969, No. 400, § 9; A.S.A. 1947, §§ 71-865, 71-884; Acts 2007, No. 223, § 46; 2009, No. 4, § 26; 2009, No. 705, § 1; 2019, No. 369, § 4.

Amendments. The 2019 amendment substituted "Arkansas Higher Education Coordinating Board" for "Career Education and Workforce Development Board" in (a)(2)(A) and (a)(2)(B).

SUBCHAPTER 6 — BODY ART**SECTION.**

17-26-601. Definitions.

17-26-602. Unlawful to perform body art on person under 18 years of age — Documentation and consent.

17-26-603. Department of Health to license, regulate, and inspect for health hazards.

17-26-604. Local health officials.

17-26-605. No criminal liability.

17-26-606. Blood-borne pathogens course.

SECTION.

17-26-607. Education of artist in training.

17-26-608. Examination — Fee.

17-26-609. Temporary demonstration license.

17-26-610. Critical items for closure of body art establishment.

17-26-611. Prohibitions.

17-26-612. Penalties.

17-26-613. Prohibited practice.

17-26-601. Definitions.

As used in this subchapter:

(1) "Artist" means any person other than a licensed physician who performs body art on a human;

(2) "Artist in training" means a person who:

(A) Is in training under the supervision of an artist trainer or a physician; and

(B) Shall not perform body art independently;

(3) "Artist trainer" means an artist who:

(A) Has been licensed by the Department of Health as an artist for at least five (5) years in the specified field of body art in which he or she will offer training;

(B) Has worked in a body art establishment licensed by the department for at least five (5) years and been in compliance with department rules governing body artists;

(C) Has completed the course required under § 17-26-606; and

(D) Is a registered instructor for the specified field of body art with the department;

(4) "Body art" means procedures that include:

(A) Tattooing;

(B) Body piercing;

(C) Branding; or

(D) Scarification;

(5)(A) "Body piercing" and "body piercing procedure" mean the puncturing of a part of a live human being to create a hole for ornamentation or decoration or a single-point perforation of a body part to insert an anchor with a single stud protruding or flush with the skin.

(B) "Body piercing" or "body piercing procedure" shall not include piercing an earlobe with a presterilized, disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the earlobe;

(6) "Branding" means a permanent mark made on human tissue by burning with a hot iron or other instrument;

(7) "Critical item" means an aspect of operation or condition of a facility or equipment that constitutes the greatest hazard to health and safety, including imminent health hazards;

(8) "Establishment" means any place or facility:

(A) Where body art is performed; and

(B) That has a body artist licensed in Arkansas on staff;

(9) "Guest artist" means an artist from a state other than Arkansas or a country other than the United States who:

(A) Holds a license from the body art regulatory board or agency, if in existence, in that state or country; or

(B) If an artist license is not available in the guest artist's state or country, can submit to the department evidence of professional experience, employment, and education including:

(i) Proof of blood-borne pathogen certification; and

(ii) Proof of employment in a licensed body art facility for at least two (2) years;

(10) "Instrument" means equipment used during body art, including without limitation:

(A) Forceps;

(B) Hemostats;

(C) Needles;

(D) Receiving tubes; and

(E) Tattoo barrels and tubes;

(11) "Scarification" means injury of the skin involving scratching, etching, or cutting of designs to produce a scar on a human being for ornamentation or decoration;

(12) "Sponsor" means an individual or business entity, including an event coordinator or manager, responsible for the organization of a convention, trade show, or other temporary event that includes a body art demonstration booth;

(13) "Subdermal implanting" means the insertion of an object under the skin of a live human being for ornamentation or decoration; and

(14)(A) "Tattooing" and "tattoo procedure" mean any method of placing designs, letters, scrolls, figures, symbols, or any other marks upon or under the skin by introducing pigments or by the production of scars to form indelible marks with the aid of needles or other instruments.

(B) "Tattooing" and "tattoo procedure" do not include permanent cosmetics.

History. Acts 2021, No. 900, § 3.

17-26-602. Unlawful to perform body art on person under 18 years of age — Documentation and consent.

(a)(1) A person under eighteen (18) years of age shall not undergo body art unless:

(A) Written consent is given by the person's parent or legal guardian;

(B) The parent or legal guardian is present during the procedure;

(C) The person to undergo body art and the parent or legal guardian each provide a valid government-issued form of identification that includes a name, date of birth, and photo; and

(D) The parent or legal guardian presents proof of guardianship that matches the identification given, including without limitation a birth certificate or a court or state record for adoption, legal guardianship, emancipation, or a marriage license.

(2) The artist shall retain for at least two (2) years a copy of a photo identification and a proof of guardianship presented under subdivision (a)(1) of this section.

(b) A person shall not perform body art on a person under sixteen (16) years of age, regardless of parental consent, except when piercing the earlobe.

(c) It is unlawful to perform body art on the nipple or genitalia of a person under eighteen (18) years of age regardless of parental consent.

(d) It is unlawful to perform branding on a person under eighteen (18) years of age regardless of parental consent.

(e) Regardless of age, the person receiving the body art shall attest to the fact that he or she is not under the influence of drugs or alcohol.

(f) Printed and verbal instructions on the care of the skin and the body art shall be given to each person after the procedure, and a copy of the instructions shall be posted in a conspicuous place in the body art establishment.

(g)(1)(A) In addition to the attestations required in subsections (a) and (e) of this section, records shall be kept of all persons receiving body art and of the parents or guardians giving consent under the rules promulgated by the State Board of Health to implement this subchapter.

(B) If the person to undergo body art is under eighteen (18) years of age, the record shall include the printed legal name and signature of the parent or legal guardian.

(2) All records shall be retained for at least two (2) years from the last date recorded in the bound book.

(3) All required signatures shall be in ink, and required records shall be available at a reasonable time for examination by the Department of Health and by local health officials.

(h)(1) Except as provided in subsections (a)-(c) of this section, it is unlawful to perform body art on a person under eighteen (18) years of age, and any person who pleads guilty or nolo contendere to or is found guilty of a violation of this subdivision (h)(1) is guilty of a Class A misdemeanor.

(2) Any person who falsely claims to be the minor's parent or legal guardian for the purpose of obtaining body art for a person under eighteen (18) years of age shall be guilty of a Class D felony.

(3) It is not a defense to a criminal prosecution under subdivision (h)(1) of this section that at the time of the offense the person who received the body art possessed a letter of consent from the person's

parent or legal guardian if the letter was forged or if a person falsely assumed the identity of the minor's parent or legal guardian.

(i)(1) It is unlawful to perform body art in any unlicensed facility.

(2) A person who pleads guilty or nolo contendere to or is found guilty of a violation of subdivision (i)(1) of this section is guilty of a Class D felony.

(3) A fine collected under this section, less court fees, shall be allocated as follows:

(A) Fifty percent (50%) to the State of Arkansas;

(B) Twenty-five percent (25%) to the city or county that levied and collected the fine; and

(C) Twenty-five percent (25%) to be deposited into the State Treasury, credited to the Public Health Fund, and used exclusively for the Body Art Program of the department.

History. Acts 2021, No. 900, § 3.

17-26-603. Department of Health to license, regulate, and inspect for health hazards.

(a)(1) Body art establishments in which body art is performed and artists who perform body art shall be licensed by the Department of Health.

(2) A body art training facility shall be licensed by the department as an establishment and as an approved body art training facility.

(3) An artist from a state other than Arkansas or a country outside of the United States who holds a license from the body art regulatory board or agency in that state or country may submit an application for qualifications review by the department to determine eligibility for a body art license based upon criteria established by the department.

(4) The business premises, equipment, procedures, techniques, and conditions of those businesses shall be subject to at least one (1) inspection by the department.

(b)(1) The department may adopt appropriate rules regarding the artists, premises, equipment, procedures, techniques, and conditions of establishments which perform procedures subject to this subchapter to assure that the premises, equipment, procedures, techniques, and conditions are aseptic and do not constitute a health hazard.

(2) Any rule affecting body art establishments shall remain in effect until the State Board of Health adopts rules under this subchapter.

(c) Applicants for a license shall file applications upon forms prescribed by the department.

(d) A license shall be issued only for the premises and persons in the application and shall not be transferable.

(e)(1)(A) The department shall levy and collect an annual fee of one hundred fifty dollars (\$150) per establishment for issuance of a license to an establishment in which body art is performed.

(B) The department shall levy and collect an annual fee of one hundred dollars (\$100) per artist for issuance of a license to an artist who performs body art.

(2)(A) The department shall collect a one-time fee of five hundred dollars (\$500) per artist licensed in a state other than Arkansas or a country other than the United States who applies for qualifications review by the department.

(B) The fee for written and practical examinations under § 17-26-608 is not required for an applicant under subdivision (e)(2)(A) of this section for examinations taken to complete requirements established by the department.

(C) Upon satisfactory completion of the requirements by the applicant and approval of qualifications established by the department, a body artist license shall be issued to an applicant under subdivision (e)(2)(A) of this section.

(D) The department shall collect the annual artist fee of one hundred dollars (\$100) after the issuance of a license under subdivision (e)(2)(C) of this section.

(3) The annual fee for an artist or for an establishment shall be based upon the calendar year, January 1 through December 31, with fees for any given year due by December 31 of the previous year.

(4) If the annual fee for a licensed establishment has not been paid by March 1 of the calendar year, the establishment shall be closed until a new license has been issued by the department and the annual fee has been paid.

(5)(A) If the annual fee for a licensed artist has not been paid by March 1 of the calendar year, the artist shall have his or her license suspended for ninety (90) days.

(B) If an artist has his or her license suspended, he or she shall before a license may be reissued within ninety (90) days after the suspension:

(i) Pay a reinstatement fee of one hundred dollars (\$100) and pay all overdue licensing fees;

(ii) Complete a written exam with the department and a practical exam in the studio in which the artist is licensed; and

(iii) Meet current requirements established by the department for artists.

(C) If an artist whose license is suspended has not met the requirements under subdivision (e)(5)(B) of this section within ninety (90) days after the suspension, the artist may apply for qualification review.

(6) In addition to the penalty provisions found in this subsection, any studio or business owner operating without a current license commits a Class D felony.

(f) All fees levied and collected under this subchapter are declared to be special revenues and shall be deposited into the State Treasury, there to be credited to the Public Health Fund to be used exclusively for the Body Art Program of the department.

(g) Subject to any rules that may be implemented by the Chief Fiscal Officer of the State, the disbursing officer for the department may transfer all unexpended funds relative to the health facility services that pertain to fees collected under this subchapter, as certified by the Chief Fiscal Officer of the State, to be carried forward and made available for expenditures for the same purpose for any following fiscal year.

History. Acts 2021, No. 900, § 3.

17-26-604. Local health officials.

(a) Any city or county department of health may periodically inspect body art establishments on the basis of compliance with state, city, or county sanitary regulations.

(b) The governing body of any municipality or county may adopt by ordinance local sanitary regulations of body art establishments.

History. Acts 2021, No. 900, § 3.

17-26-605. No criminal liability.

This subchapter does not create any liability, criminal or otherwise, for a person under eighteen (18) years of age for undergoing body art.

History. Acts 2021, No. 900, § 3.

17-26-606. Blood-borne pathogens course.

(a)(1) Each artist, artist trainer, and artist in training shall complete United States Occupational Safety and Health Administration blood-borne pathogens training approved by the Department of Health.

(2) An approved online course may be used to satisfy the requirement under subdivision (a)(1) of this section.

(b) Each artist trainer shall complete the course before training any artist in training.

(c) Each artist in training shall complete the course before applying for the examination required under § 17-26-608.

(d)(1) After completion of a first United States Occupational Safety and Health Administration blood-borne pathogens training approved by the department, an artist, an artist trainer, and an artist in training shall renew the training annually.

(2) A copy of each annual certification under subdivision (d)(1) of this section shall be submitted to the department with the license renewal.

History. Acts 2021, No. 900, § 3.

17-26-607. Education of artist in training.

(a) An artist trainer shall be a registered instructor in a school licensed by the Department of Health.

(b) The department shall develop standards to determine:

(1) The maximum number of artists in training in a training facility at any time; and

(2) The length of the program in hours and across a range of months.

(c)(1)(A) During the artist training in the fields of tattooing, body piercing, or permanent cosmetics, each artist in training shall complete not less than three hundred seventy-five (375) clock hours of supervised body art work and classroom instruction in a period not less than six (6) months or more than twenty-four (24) months in an establishment licensed under § 17-26-603 and § 6-51-601 et seq.

(B) During the artist training in the field of branding, each artist in training shall complete not less than three hundred seventy-five (375) clock hours of supervised body art work and classroom instruction in a period not less than six (6) months or more than twenty-four (24) months in an establishment licensed under § 17-26-603 and § 6-51-601 et seq.

(C) Additional fields of body art training may be added by completing not less than two hundred fifty (250) clock hours of technical and procedural training in each of the other fields of body art in which an artist in training is to be licensed.

(D) An artist in training studying multiple fields of body art at the same time shall complete the total clock hours of all fields in not less than twelve (12) months or more than twenty-four (24) months.

(2)(A) The artist trainer shall maintain a training log of the clock hours completed by the artist in training on forms approved by the department.

(B) The training log shall include without limitation a record of:

(i) Hours of both theory and practical education;

(ii) The procedures observed and completed; and

(iii) A list of resources used for training.

(C) The artist in training shall keep available for inspection a bound record book that is separate from the record book of another artist or artist in training.

(D) The completed training log shall be submitted to the department at the time of the practical examination under § 17-26-608.

(d) An artist trainer may offer training only in the area in which the artist trainer holds a current license from the department.

(e) The department shall adopt a minimum curriculum for each area of body art training that shall be followed by all artist trainers, artists in training, and body art training facilities.

History. Acts 2021, No. 900, § 3.

17-26-608. Examination — Fee.

(a)(1)(A) Each artist in training seeking licensure as an artist under the rules of the Department of Health shall take a written examination prepared or approved by the department before beginning training.

(B) Upon completion of the hours required under § 17-26-607, a practical examination shall be conducted by the department in each field of training for which the artist in training is seeking licensure.

(2) Until an artist in training receives a passing grade on the practical examination, no artist in training may:

(A) Be licensed as an artist;

(B) Hold himself or herself out as a licensed artist; or

(C) Independently perform a body art procedure without the supervision of a body art trainer.

(b) The department shall levy and collect a nonrefundable fee of fifty dollars (\$50.00) from each artist in training who applies to take the written and practical examinations required under this section for licensure as an artist.

(c) A fee collected under this section shall be deposited into the State Treasury, credited to the Public Health Fund, and used exclusively for the Body Art Program of the department.

History. Acts 2021, No. 900, § 3.

17-26-609. Temporary demonstration license.

(a) The Department of Health may issue a temporary demonstration license to an artist or establishment or to a supplier of materials for body art for:

(1) Educational purposes where body art is performed;

(2) Trade shows where body art is performed;

(3) Demonstrations of body art products or procedures; and

(4) An appearance as a guest artist.

(b) A temporary demonstration license shall be valid for no more than fourteen (14) consecutive calendar days.

(c)(1) The sponsor of a body art event for an educational purpose, a trade show, a demonstration, or a combination of an educational purpose, a trade show, and a demonstration of body art procedures where body art is performed shall obtain the necessary permits to conduct business in the jurisdiction in which the event will be held, including without limitation a permit issued by the department.

(2) The department shall collect a nonrefundable sponsor fee of fifty dollars (\$50.00) per artist who performs body art at an event, not to exceed two thousand dollars (\$2,000) per event.

(3) In addition to the penalties under § 17-26-602, a sponsor who violates this subsection is subject to closure of the temporary body art event and a penalty not to exceed three (3) times the cost of the permit.

(d) The department shall levy and collect a nonrefundable fee of fifty dollars (\$50.00) from a guest artist for a temporary demonstration license.

(e)(1) An application for a temporary demonstration license shall be submitted to the department not less than forty-five (45) days before the event for educational purposes, trade show, or demonstration of body art products and procedures where body art is performed.

(2) An application for a temporary demonstration license shall be submitted to the department not less than seven (7) days before the appearance of a guest artist.

(3) An artist shall provide evidence of completion of United States Occupational Safety and Health Administration blood-borne pathogens training with the application.

(f)(1) A person applying for a temporary demonstration license to appear as a guest artist shall provide documentation of licensure as an artist in another state or country or employment history in a studio licensed by the regulatory board or agency in another state or country before the temporary demonstration license may be granted.

(2) The establishment where the guest artist is appearing shall have a licensed body artist on its staff.

(3) A guest artist may be issued a temporary demonstration license to appear as a guest artist no more than one (1) time every three (3) months.

(g) A fee levied and collected under this section is special revenue and shall be deposited into the State Treasury, to be credited to the Public Health Fund to be used exclusively for the Body Art Program of the department.

History. Acts 2021, No. 900, § 3.

17-26-610. Critical items for closure of body art establishment.

(a)(1) The Department of Health shall create and publish a list of critical items for closure of an establishment.

(2) The department shall list the prohibitions under § 17-26-611 as critical items for closure.

(b)(1) An establishment that violates a critical item from the list established under subsection (a) of this section is subject to immediate closure by the department.

(2) An establishment closed under subdivision (b)(1) of this section shall remain closed until:

(A) Fines or penalties, or both, that are assessed under this subchapter have been paid; and

(B) Upon inspection by the department, the establishment is no longer in violation of a critical item.

History. Acts 2021, No. 900, § 3.

17-26-611. Prohibitions.

(a) Body art is prohibited:

(1) On a person who is inebriated or appears to be incapacitated by the use of alcohol or drugs;

(2) On a person who shows signs of recent intravenous drug use;

(3) On an area with sunburn, open lesions, rashes, or wounds;

(4) With the use of a product or ink banned or restricted by the United States Food and Drug Administration;

(5) In a procedure area that is not physically and permanently separated from beauty facilities, such as hair and nail services; and

(6) On an animal in a facility licensed for the application of body art on human beings.

(b) A piercing gun shall be used only to pierce an earlobe.

(c) A person shall not:

(1) Perform a piercing with a manually loaded spring-operated piercing device;

(2) Pierce an earlobe with a piercing gun that does not use a presterilized encapsulated stud and clasp system; or

(3)(A) An artist shall not use jewelry for initial piercing that is not certified by ASTM International or the International Organization for Standardization, or both, as an implant-grade material except for specified types of glass, gold, and niobium as approved by the rules established by the Department of Health.

(B) An artist shall maintain on file for inspection a Mill Test Certificate confirming certification by ASTM International or the International Organization for Standardization, or both, for steel and titanium jewelry for initial piercing.

(d)(1) A person shall not sell a body piercing needle, tattoo needle, or body art instrument, or a combination of these, including without limitation tattoo ink, barrel, drip, and a tattoo machine, to a person within this state who is not licensed as an artist by the department.

(2)(A) A violation of subdivision (d)(1) of this section is a Class A misdemeanor.

(B) Each violation of subdivision (d)(1) of this section is a separate offense.

(e)(1) Possession of a body piercing needle, tattoo needle, or body art instrument, or a combination of these, including without limitation tattoo ink, barrel, drip, and a tattoo machine, by a person within this state who is not licensed as an artist by the department is prohibited.

(2)(A) A violation of subdivision (e)(1) of this section is a Class A misdemeanor.

(B) Each violation of subdivision (e)(1) of this section is a separate offense.

(f) A fine collected under this section, less court fees, shall be allocated as follows:

(1) Fifty percent (50%) to the State of Arkansas;

(2) Twenty-five percent (25%) to the city or county that levied and collected the fine; and

(3) Twenty-five percent (25%) to be deposited into the State Treasury, credited to the Public Health Fund, and used exclusively for the Body Art Program of the department.

History. Acts 2021, No. 900, § 3.

17-26-612. Penalties.

(a) An artist who violates this subchapter or rules adopted by the State Board of Health pertaining to body art commits a misdemeanor punishable by a fine of not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) for each offense.

(b) After notice of a violation has been given, each violation of this subchapter constitutes a separate offense unless another penalty is specifically provided in this subchapter.

History. Acts 2021, No. 900, § 3.

17-26-613. Prohibited practice.

An artist licensed by the Department of Health shall not perform or attempt to perform the insertion of a subdermal implant.

History. Acts 2021, No. 900, § 3.

SUBCHAPTER 7 — PERMANENT COSMETICS AND SEMIPERMANENT COSMETICS**SECTION.**

- 17-26-701. Definitions.
- 17-26-702. Unlawful to perform permanent cosmetics or semipermanent cosmetics on person under 18 years of age — Documentation and consent.
- 17-26-703. Licensure, regulation, and inspection for health hazards.
- 17-26-704. Local health officials.
- 17-26-705. No criminal liability.

SECTION.

- 17-26-706. Blood-borne pathogens course.
- 17-26-707. Education of student.
- 17-26-708. Institutions.
- 17-26-709. Examination — Fee.
- 17-26-710. Temporary demonstration license.
- 17-26-711. Critical items for closure of establishment.
- 17-26-712. Prohibitions.
- 17-26-713. Penalties.

17-26-701. Definitions.

As used in this subchapter:

(1) “Artist” means any person other than a licensed physician who performs permanent cosmetics or semipermanent cosmetics on a human and is licensed in this state;

(2) “Critical item” means an aspect of operation or condition of a facility or equipment that constitutes the greatest hazard to health and safety, including imminent health hazards;

(3) “Establishment” means any place or facility:

(A) Where permanent cosmetics or semipermanent cosmetics is performed; and

(B) That has an artist licensed in Arkansas on staff;

(4) “Guest artist” means an artist from a state other than Arkansas or a country other than the United States who:

(A) Holds a license from the permanent cosmetics or semipermanent cosmetics regulatory board or agency, if in existence, in that state or country; or

(B) If an artist license is not available in the guest artist's state or country, can submit to the Department of Health evidence of professional experience, employment, and education including:

(i) Proof of blood-borne pathogen certification; and

(ii) Proof of employment in an establishment for at least two (2) years;

(5) "Institution" means an establishment that is owned by an artist and licensed by the department to offer postsecondary education to students in the field of permanent cosmetics and semipermanent cosmetics;

(6) "Paramedical tattooing" means procedures that involve repigmentation, including without limitation:

(A) 3D nipple and areola;

(B) Scar camouflaging;

(C) Scalp micropigmentation;

(D) Microblading;

(E) Makeup application; and

(F) Pigment lightening;

(7) "Permanent cosmetics" means the application of pigment placed in the skin by needle or other instruments to beautify the body including without limitation:

(A) Permanent eyebrows;

(B) Permanent eyeliner; and

(C) Permanent lip liner or color;

(8) "Repigmentation" means recoloration of the skin, including through the use of dermabrasion or chemical peels, sought due to:

(A) Birthmarks, vitiligo, or other skin conditions that result in the loss of melanin to the skin;

(B) Scarring caused by surgical procedures, including without limitation face lifts, mole or wart removal, cauterization, and other similar procedures;

(C) Mastectomy, including recreation of an areola or nipple; or

(D) Blotchy pigmentation;

(9) "Semipermanent cosmetics" means the application of cosmetic products in or on the body to beautify the body, including without limitation:

(A) Repigmentation;

(B) Microneedling;

(C) Eyelash extensions;

(D) Makeup application; and

(E) Removal of hair through products or instruments which do not include waves, rays, or lasers;

(10) "Sponsor" means an individual or business entity, including an event coordinator or manager, responsible for the organization of a convention, trade show, or other temporary event that includes a permanent cosmetics or semipermanent cosmetics demonstration booth;

(11) "Sponsor educator" means an individual who:

(A) Has been certified by the department as an instructor of permanent cosmetics and semipermanent cosmetics on or before July 28, 2021; or

(B) On and after July 28, 2021, meets the following requirements:

(i) Has completed the education required under § 17-26-707; and

(ii) Is a registered instructor for permanent cosmetics or semipermanent cosmetics with the department; and

(12) "Student" means any person who is enrolled and engaged in learning or acquiring knowledge of permanent cosmetics and semipermanent cosmetics in an institution under a sponsor educator.

History. Acts 2021, No. 900, § 3.

17-26-702. Unlawful to perform permanent cosmetics or semipermanent cosmetics on person under 18 years of age — Documentation and consent.

(a)(1) A person under eighteen (18) years of age shall not undergo permanent cosmetics or semipermanent cosmetics unless:

(A) Written consent is given by the person's parent or legal guardian;

(B) The parent or legal guardian is present during the procedure;

(C) The person to undergo permanent cosmetics and semipermanent cosmetics and the parent or legal guardian each provide a valid government-issued form of identification that includes a name, date of birth, and photo; and

(D) The parent or legal guardian presents proof of guardianship that matches the identification given, including without limitation a birth certificate or a court or state record for adoption, legal guardianship, emancipation, or a marriage license.

(2) The artist shall retain for at least two (2) years a copy of a photo identification and a proof of guardianship presented under subdivision (a)(1) of this section.

(b) A person shall not perform permanent cosmetics and paramedical tattooing on a person under thirteen (13) years of age, regardless of parental consent, except when authorized or prescribed by a physician's statement.

(c) Regardless of age, the person receiving the permanent cosmetics and semipermanent cosmetics shall attest to the fact that he or she is not under the influence of drugs or alcohol.

(d) Printed and verbal instructions on the care of the skin and the permanent cosmetics and semipermanent cosmetics shall be given to each person after the procedure, and a copy of the instructions shall be posted in a conspicuous place in the establishment.

(e)(1)(A) In addition to the attestations required in subsections (a) and (c) of this section, records shall be kept of all persons receiving permanent cosmetics and semipermanent cosmetics and of the parents or legal guardians giving consent under the rules promulgated by the Department of Health to implement this subchapter.

(B) If the person to undergo permanent cosmetics and semipermanent cosmetics is under eighteen (18) years of age, the record shall include the printed legal name and signature of the parent or legal guardian.

(2) All records shall be retained for at least two (2) years from the last date recorded in the bound book.

(3) All required signatures shall be in ink or digital form, and required records shall be available at a reasonable time for examination by the department and by local health officials.

(f)(1) Except as provided in subsections (a)-(c) of this section, it is unlawful to perform permanent cosmetics and semipermanent cosmetics on a person under eighteen (18) years of age, and any person who pleads guilty or nolo contendere to or is found guilty of a violation of this subdivision (f)(1) is guilty of a Class A misdemeanor.

(2) Any person who falsely claims to be the minor's parent or legal guardian for the purpose of obtaining permanent cosmetics and semipermanent cosmetics for a person under eighteen (18) years of age shall be guilty of a Class D felony.

(3) It is not a defense to a criminal prosecution under subdivision (f)(1) of this section that at the time of the offense the person who received the permanent cosmetics or semipermanent cosmetics possessed a letter of consent from the person's parent or legal guardian if the letter was forged or if a person falsely assumed the identity of the minor's parent or legal guardian.

(g)(1) It is unlawful to perform permanent cosmetics or semipermanent cosmetics in any unlicensed establishment.

(2) A person who pleads guilty or nolo contendere to or is found guilty of a violation of subdivision (g)(1) of this section is guilty of a Class D felony.

(3) A fine collected under this section, less court fees, shall be allocated as follows:

(A) Fifty percent (50%) to the State of Arkansas;

(B) Twenty-five percent (25%) to the city or county that levied and collected the fine; and

(C) Twenty-five percent (25%) to be deposited into the State Treasury, credited to the Public Health Fund, and used exclusively for permanent cosmetics and semipermanent cosmetics.

History. Acts 2021, No. 900, § 3.

17-26-703. Licensure, regulation, and inspection for health hazards.

(a)(1) An artist who performs permanent cosmetics or semipermanent cosmetics shall be licensed by the Department of Health.

(2) An establishment where artists perform permanent cosmetics or semipermanent cosmetics shall be licensed by the department.

(3) An institution shall be licensed by the department as an establishment.

(4) An artist from a state other than Arkansas or a country outside of the United States who holds a license from the permanent cosmetics and semipermanent cosmetics regulatory board or agency in that state or country may submit an application for qualifications review by the department to determine eligibility for a permanent cosmetics and semipermanent cosmetics license based upon criteria established by the department.

(5) The business premises, equipment, procedures, techniques, and conditions of those businesses shall be subject to at least one (1) inspection by the department.

(b)(1) The department may adopt appropriate rules regarding the artists, premises, equipment, procedures, techniques, and conditions of establishments which perform procedures subject to this subchapter to assure that the premises, equipment, procedures, techniques, and conditions are aseptic and do not constitute a health hazard.

(2) Any rule affecting establishments in effect on January 1, 2021, shall remain in effect until the department adopts rules under this subchapter.

(c) Applicants for a license shall file applications upon forms prescribed by the department.

(d) A license shall be issued only for the premises and persons in the application and shall not be transferable.

(e)(1) The department shall levy and collect an annual fee of:

(A) One hundred fifty dollars (\$150) per facility for issuance of a license to an establishment; and

(B) One hundred dollars (\$100) per artist for issuance of a license to an artist.

(2)(A) The department shall collect a one-time fee of five hundred dollars (\$500) per artist licensed in a state other than Arkansas or a country other than the United States who applies for qualifications review by the department.

(B) The fee for written and practical exams under § 17-26-709 is not required for an applicant under subdivision (e)(2)(A) of this section for exams taken to complete requirements established by the department.

(C) Upon satisfactory completion of the requirements by the applicant and approval of qualifications established by the department, a license for an artist shall be issued to an applicant under subdivision (e)(2)(A) of this section.

(D) The department shall collect the annual artist fee of one hundred dollars (\$100) after the issuance of a license under subdivision (e)(2)(C) of this section.

(3) The annual fee for an artist or for an establishment shall be based upon the calendar year, January 1 through December 31, with fees for any given year due by December 31 of the previous year.

(4) If the annual fee for an establishment has not been paid by March 1 of the calendar year, the establishment shall be closed until a new license has been issued by the department and the annual fee has been paid.

(5)(A) If the annual fee for an artist has not been paid by March 1 of the calendar year, the artist shall have his or her license suspended for ninety (90) days.

(B) If an artist has his or her license suspended, he or she shall before a license may be reissued within ninety (90) days after the suspension:

(i) Pay a reinstatement fee of one hundred dollars (\$100) and pay all overdue licensing fees;

(ii) Complete a written exam with the department and a practical exam in the establishment in which the artist is licensed; and

(iii) Meet current requirements established by the department for artists.

(C) If an artist whose license is suspended has not met the requirements under subdivision (e)(5)(B) of this section within ninety (90) days after the suspension, the artist may apply for qualification review.

(6) In addition to the penalty provisions found in this subsection, any owner of an establishment or institution operating without a current license commits a Class D felony.

(f) An artist shall complete not less than eight (8) clock hours of continuing education at an institution licensed by the State Board of Health in order to renew his or her license each year.

(g) All fees levied and collected under this subchapter are declared to be special revenues and shall be deposited into the State Treasury, and be used exclusively for permanent cosmetics and semipermanent cosmetics.

(h) Subject to any rules as may be implemented by the Chief Fiscal Officer of the State, the disbursing officer for the department may transfer all unexpended funds that pertain to fees collected under this subchapter, as certified by the Chief Fiscal Officer of the State, to be carried forward and made available for expenditures for the same purpose for any following fiscal year.

History. Acts 2021, No. 900, § 3.

17-26-704. Local health officials.

(a) Any city or county department of health may periodically inspect establishments on the basis of compliance with state, city, or county sanitary regulations.

(b) The governing body of any municipality or county may adopt by ordinance local sanitary regulations of establishments.

History. Acts 2021, No. 900, § 3.

17-26-705. No criminal liability.

This subchapter does not create any liability, criminal or otherwise, for a person under eighteen (18) years of age for undergoing permanent cosmetics or semipermanent cosmetics.

History. Acts 2021, No. 900, § 3.

17-26-706. Blood-borne pathogens course.

(a)(1) Each artist, instructor, and student shall complete United States Occupational Safety and Health Administration blood-borne pathogens training approved by the Department of Health on or before December 1, 2022.

(2) An approved online course may be used to satisfy the requirement under subdivision (a)(1) of this section.

(b) Each instructor shall complete the course before training any student.

(c) Each student shall complete the course before applying for the examination required under § 17-26-709.

(d)(1) After completion of a first United States Occupational Safety and Health Administration blood-borne pathogens training approved by the department, an artist, instructor, and student shall renew the training annually.

(2) A copy of each annual certification under subdivision (d)(1) of this section shall be submitted to the department with the license renewal.

History. Acts 2021, No. 900, § 3.

17-26-707. Education of student.

(a) A sponsor educator shall be a registered sponsor educator at an institution licensed by the Department of Health.

(b) The department shall develop standards to determine:

(1) The maximum number of students in an institution at one (1) time; and

(2) The length of the program in hours and across a range of months.

(c)(1)(A) During the education of the student in permanent cosmetics, each student shall complete not less than four hundred (400) clock hours of supervised permanent cosmetics education, including not less than one hundred fifty (150) hours of supervised on-site work and not less than two hundred (200) hours of classroom instruction, in a period not less than six (6) months or more than twenty-four (24) months in an establishment licensed under § 17-26-703.

(B) During the education of a student in semipermanent cosmetics, each student shall complete not less than two hundred (200) clock hours of supervised semipermanent cosmetics, including not less than one hundred (100) hours of supervised on-site work and not less than fifty (50) hours of classroom instruction, in a period not less than six (6) months or more than twenty-four (24) months in an establishment licensed under § 17-26-703.

(C) Additional modalities of paramedical tattooing may be added by completing not less than sixteen (16) clock hours of technical and procedural training in each of the fields of paramedical tattooing in which the student is to be licensed.

(D) A student studying multiple fields of permanent cosmetics and semipermanent cosmetics at the same time shall complete a total of six hundred (600) clock hours of all fields in not less than six (6) months or more than twenty-four (24) months.

(2)(A) The sponsor educator shall maintain a training log of the clock hours completed by the student on forms approved by the State Board of Health.

(B) The training log shall include without limitation a record of:

- (i) Hours of both theory and practical education;
- (ii) The procedures observed and completed;
- (iii) A list of resources used for training;
- (iv) The name, address, phone number, email address, and date of birth of the client on whom the procedure is performed;
- (v) The date of the procedure;
- (vi) The name, phone number, and signature of the student; and
- (vii) The name and signature of the sponsor educator and one (1) administrative member of the institution.

(C) The student shall keep available for inspection a bound record book that is separate from the record book of another artist or artist in training.

(D) The completed training log shall be submitted to the board at the time of the practical examination under § 17-26-709.

(3) In order to graduate from an institution, a student shall complete three (3) procedures in each area of the face by using the equipment.

(d)(1) During the education of an artist to become a sponsor educator, each artist shall complete not less than six hundred (600) clock hours of a supervised instructor program, including not less than one hundred (100) hours of teaching observation, two hundred (200) hours of theory, one hundred fifty (150) hours of procedure observation, and one hundred fifty (150) hours of practice teaching.

(2) A person shall not identify as a sponsor educator until licensed or certified under this subchapter.

(3) A licensure or certification of a sponsor educator is only valid at the institution in which the licensure or certification is received.

(4) A sponsor educator may offer training only in the area in which the sponsor educator holds a current license from the department.

(e) The department shall adopt a minimum curriculum for each area of permanent cosmetics and semipermanent cosmetics training that shall be followed by all sponsor educators, students, and institutions.

History. Acts 2021, No. 900, § 3.

17-26-708. Institutions.

(a) The Department of Health may grant licensure to an institution if the owner of the institution submits:

- (1) The address and phone number of the institution;
- (2) Proof of accreditation within the previous six (6) months;

(3) The floor plan of the institution to ensure adequate space for fundamental teaching and hands-on laboratory instruction;

(4) The name, contact information, work experience, and license information for all sponsor educators teaching at the institution;

(5) The background and resume of the owner;

(6) Proof of registration and good standing with the Secretary of State under the name of the institution;

(7) Proof of malpractice or liability insurance;

(8) A detailed curriculum to be approved by the department; and

(9) A licensure fee of eight hundred fifty dollars (\$850).

(b) Once licensed by the department, the institution shall:

(1) Maintain daily records of the student's time which shall be accessible by the student and the department;

(2) Ensure that hours on the transcript are transferable with all institutions within this state;

(3) Provide:

(A)(i) A certified transcript to a student or the department upon request.

(ii) The institution may charge a student no more than twenty-five dollars (\$25.00) per copy and shall provide the copy within two (2) business days; and

(B)(i) A copy of the enrollment agreement between the institution and the student to the department.

(ii) The enrollment agreement may be adjusted at any time with a thirty-day written notice and supporting documentation submitted to the department; and

(4) Submit a renewal fee of one hundred dollars (\$100).

(c) An institution that does not comply with this section is subject to:

(1) A fine not to exceed one thousand dollars (\$1,000) per violation;

(2) Reimbursement or refund to a student of no less than fifty percent (50%) of tuition per student; or

(3) Permanent closure of the institution.

(d) An institution that does not comply with or breaches the enrollment agreement between the institution and the student is subject to:

(1) A fine not to exceed five hundred dollars (\$500) per violation;

(2) Reimbursement or refund to a student of no less than fifty percent (50%) of tuition per student; or

(3) Permanent closure of the institution.

(e)(1) An institution that proposes to offer distance learning shall provide a detailed curriculum of the course of study with supporting materials and digital testing methods.

(2) The department shall not license an institution for distance learning if the institution is unable to administratively support off-campus education.

(3) A student may take a permanent cosmetics and semipermanent cosmetics kit or machine, or both, home to be able to practice remotely through institutions approved for distance learning.

(f)(1) An institution may utilize guest artists and guest educators for courses.

(2) A guest artist shall:

(A) Pay a fee of five hundred dollars (\$500) to perform billable services in this state; and

(B) Apply for a license in this state that has to be valid for no more than fourteen (14) consecutive days.

(3) A guest educator shall not perform billable services and shall be regulated under the authority of the institution.

(g)(1) An institution in operation on July 28, 2021, shall submit all documentation indicated in this section to the department and comply with all laws and rules within ninety (90) days to remain in operation.

(2) An institution that does not become compliant within ninety (90) days is subject to immediate closure until the institution comes into compliance.

History. Acts 2021, No. 900, § 3.

17-26-709. Examination — Fee.

(a)(1)(A) Each student seeking licensure as an artist under the rules of the Department of Health shall take a written and practical examination prepared or approved by the department after completion of education requirements.

(B) Upon completion of the hours required under § 17-26-707, a practical examination shall be conducted by the department in each field of training for which the student is seeking licensure.

(2) Until a student receives a passing grade on the written and practical examination, a student shall not:

(A) Be licensed as an artist;

(B) Hold himself or herself out as a licensed artist; or

(C) Independently perform a permanent cosmetics or semipermanent cosmetics procedure without the supervision of a sponsor educator.

(b) The department shall levy and collect a nonrefundable fee of fifty dollars (\$50.00) from each student who applies to take the written and practical examinations required under this section for licensure as an artist.

(c) A fee collected under this section shall be deposited into the State Treasury, credited to the Public Health Fund, and used exclusively for permanent cosmetics and semipermanent cosmetics.

History. Acts 2021, No. 900, § 3.

17-26-710. Temporary demonstration license.

(a) The Department of Health may issue a temporary demonstration license to an artist or establishment or to a supplier of materials for permanent cosmetics and semipermanent cosmetics for:

(1) Educational purposes where permanent cosmetics and semipermanent cosmetics are performed;

(2) Trade shows where permanent cosmetics and semipermanent cosmetics are performed;

(3) Demonstrations of permanent cosmetics and semipermanent cosmetics products or procedures; and

(4) An appearance as a guest artist.

(b) A temporary demonstration license shall be valid for no more than fourteen (14) consecutive calendar days.

(c)(1) The sponsor of a permanent cosmetics and semipermanent cosmetics event for an educational purpose, a trade show, a demonstration, or a combination of an educational purpose, a trade show, and a demonstration of permanent cosmetics or semipermanent cosmetics procedures where permanent cosmetics and semipermanent cosmetics are performed shall obtain the necessary permits to conduct business in the jurisdiction in which the event will be held, including without limitation a permit issued by the department.

(2) The department shall collect a nonrefundable fee of fifty dollars (\$50.00) per artist who performs permanent cosmetics and semipermanent cosmetics at an event, not to exceed two thousand dollars (\$2,000) per event.

(3) In addition to the penalties under § 17-26-702, a sponsor who violates this subsection is subject to closure of the temporary permanent cosmetics and semipermanent cosmetics event and a penalty not to exceed three (3) times the cost of the permit.

(d) The department shall levy and collect a nonrefundable fee of fifty dollars (\$50.00) from a guest artist for a temporary demonstration license.

(e)(1) An application for a temporary demonstration license shall be submitted to the department not less than forty-five (45) days before the event for educational purposes, trade show, or demonstration of permanent cosmetics and semipermanent cosmetics products and procedures where permanent cosmetics and semipermanent cosmetics are performed.

(2) An application for a temporary demonstration license shall be submitted to the department not less than seven (7) days before the appearance of a guest artist.

(3) An artist shall provide evidence of completion of United States Occupational Safety and Health Administration blood-borne pathogens training with the application.

(f)(1) A person applying for a temporary demonstration license to appear as a guest artist shall provide documentation of licensure as an artist in another state or country or employment history in an establishment licensed by the regulatory board or agency in another state or country before the temporary demonstration license may be granted.

(2) The establishment where the guest artist is appearing shall have a licensed artist on its staff.

(3) A guest artist may be issued a temporary demonstration license to appear as a guest artist no more than one (1) time every three (3) months.

(g) A fee levied and collected under this section is special revenue and shall be deposited into the State Treasury, to be credited to the Public Health Fund to be used exclusively for permanent cosmetics and semipermanent cosmetics.

History. Acts 2021, No. 900, § 3.

17-26-711. Critical items for closure of establishment.

(a) The Department of Health shall create and publish a list of critical items for closure of an establishment.

(b)(1) An establishment that violates a critical item from the list established under subsection (a) of this section is subject to immediate closure by the department.

(2) An establishment closed under subdivision (b)(1) of this section shall remain closed until:

(A) Fines or penalties, or both, assessed under this subchapter have been paid; and

(B) Upon inspection by the department, the establishment is no longer in violation of a critical item.

History. Acts 2021, No. 900, § 3.

17-26-712. Prohibitions.

(a) Permanent cosmetics and semipermanent cosmetics are prohibited:

(1) On a person who is inebriated or appears to be incapacitated by the use of alcohol or drugs;

(2) On a person who shows signs of recent intravenous drug use;

(3) On an area with sunburn, open lesions, rashes, or wounds;

(4) With the use of a product or ink banned or restricted by the United States Food and Drug Administration; and

(5) On an animal in a facility licensed for the application of permanent cosmetics or semipermanent cosmetics on human beings.

(b)(1) A person shall not sell an instrument of permanent cosmetics or semipermanent cosmetics to a person within this state who is not licensed as an artist by the Department of Health.

(2)(A) A violation of subdivision (b)(1) of this section is a Class A misdemeanor.

(B) Each violation of subdivision (b)(1) of this section is a separate offense.

(c)(1) Possession of an instrument of permanent cosmetics or semipermanent cosmetics by a person within this state who is not licensed as an artist or registered student by the department is prohibited.

(2)(A) A violation of subdivision (c)(1) of this section is a Class A misdemeanor.

(B) Each violation of subdivision (c)(1) of this section is a separate offense.

(d) A fine collected under this section, less court fees, shall be allocated as follows:

- (1) Fifty percent (50%) to the State of Arkansas;
- (2) Twenty-five percent (25%) to the city or county that levied and collected the fine; and
- (3) Twenty-five percent (25%) to be deposited into the State Treasury, credited to the Public Health Fund, and used exclusively for permanent cosmetics and semipermanent cosmetics.

History. Acts 2021, No. 900, § 3.

17-26-713. Penalties.

(a) An artist who violates this subchapter or rules adopted by the Department of Health pertaining to permanent cosmetics or semipermanent cosmetics commits a misdemeanor punishable by a fine of not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) for each offense.

(b) After notice of a violation has been given, each violation of this subchapter constitutes a separate offense unless another penalty is specifically provided in this subchapter.

History. Acts 2021, No. 900, § 3.

CHAPTER 27 COUNSELORS

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ARKANSAS BOARD OF EXAMINERS IN COUNSELING.
3. LICENSING.
4. LICENSING ALCOHOLISM AND DRUG ABUSE COUNSELORS.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 17-27-102. Definitions.
- 17-27-103. Exemptions.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding

the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health,

and safety shall become effective on July 1, 2019.”

17-27-102. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) “Counseling services” means those acts and behaviors coming within the practice of counseling, as defined in this section;

(2) “Counselor educator” means a person who:

(A) Possesses an advanced degree in counseling, psychology, or a closely related field; and

(B) Is employed in a teaching position at least part-time at an Arkansas institution of higher education or is retired from employment in a teaching position with an Arkansas institution of higher education;

(3) “Licensed associate counselor” means any person who:

(A) Holds himself or herself out to the public by any title or description of services incorporating the words “licensed associate counselor”;

(B) Offers to render counseling services to individuals, groups, organizations, corporations, institutions, government agencies, or the general public for monetary remuneration or otherwise implying that he or she is licensed, trained, experienced, or expert in counseling; and

(C) Holds a current, valid license to practice counseling under the supervision of a licensed professional counselor. Nothing in this definition shall be construed to include those professions excluded by § 17-27-103;

(4) “Licensed associate marriage and family therapist” means any person who:

(A) Holds himself or herself out to the public by any title or description of services incorporating the words “licensed associate marriage and family therapist”;

(B) Offers to render marriage and family therapy services to individuals, couples, and families, singularly or in groups, for monetary remuneration; and

(C) Holds a current, valid license to practice marriage and family therapy services under the supervision of a licensed marriage and family therapist. Nothing in this definition shall be construed to include those professions excluded by § 17-27-103;

(5) “Licensed marriage and family therapist” means any person who:

(A) Holds himself or herself out to the public by any title or description of services incorporating the words “licensed marriage and family therapist”;

(B) Offers to render marriage and family therapy services to individuals, groups, couples, families, organizations, corporations, institutions, government agencies, or the general public for monetary

remuneration or otherwise implying that he or she is licensed, trained, experienced, or expert in marriage and family therapy; and

(C) Holds a current, valid license to practice marriage and family therapy, with the exception of those professions listed in § 17-27-103;

(6) "Licensed professional counselor" means any person who:

(A) Holds himself or herself out to the public by any title or description of services incorporating the words "licensed professional counselor";

(B) Offers to render counseling services to individuals, groups, organizations, corporations, institutions, government agencies, or the general public for monetary remuneration or otherwise, implying that he or she is licensed, trained, experienced, or expert in counseling; and

(C) Holds a current, valid license to practice counseling, with the exception of those professions listed in § 17-27-103;

(7)(A) "Marriage and family therapy" means the use of scientific and applied marriage and family theories, methods, and procedures for the purpose of describing, evaluating, and modifying marital, family, and individual behavior within the context of marital and family systems, including the context of marital formation and dissolution.

(B) Marriage and family therapy is based on systems, theories, marriage and family development, normal and dysfunctional behavior, human sexuality, and psychotherapeutic, marital, and family therapy theories and techniques and includes the use of marriage and family therapy theories and techniques in the evaluation, assessment, and treatment of intrapersonal or interpersonal dysfunctions within the context of marriage and family systems.

(C) Marriage and family therapy may also include clinical research into more effective methods for the treatment and prevention of the above-named conditions.

(D) Nothing in this definition or in this chapter shall be construed as precluding licensed professional counselors or licensed associate counselors from rendering these services; and

(8) "Practice of counseling" means rendering or offering to render to individuals, groups, organizations, or the general public any service involving the application of principles, methods, or procedures of the counseling profession which include, but are not restricted to:

(A) "Counseling", which means assisting an individual or groups, through the counseling relationship, to develop understandings of personal problems, to define goals, and to plan action reflecting his or her interests, abilities, aptitudes, and needs as these are related to personal social concerns, educational progress, and occupations and careers;

(B) "Appraisal activities", which means selecting, administering, scoring, and interpreting instruments designed to assess an individual's aptitudes, attitudes, abilities, achievements, interests, and personal characteristics but shall not include the use of projective techniques in the assessment of personality;

(C) "Consulting", which means interpreting or reporting scientific fact or theory to provide assistance in solving current or potential problems of individuals, groups, or organizations;

(D) "Referral activities", which means the evaluating of data to identify problems and to determine the advisability of referral to other specialists; and

(E) "Research activities", which means reporting, designing, conducting, or consulting on research in counseling with human subjects.

History. Acts 1979, No. 593, § 3; A.S.A. 1947, § 71-5203; Acts 1997, No. 244, § 1; 2017, No. 540, § 19; 2019, No. 386, § 17.

Amendments. The 2019 amendment deleted former (1).

17-27-103. Exemptions.

(a) This chapter shall not be applicable to persons engaged in counseling individuals or groups concerning weight loss, weight control, or nutrition education, nor to persons whose counseling activities are confined to the area of alcohol and drug abuse.

(b) Nothing in § 17-27-104 shall be construed to preclude the advertising of services or to limit:

(1) The professional pursuits of administrators, teachers, and school counselors certified by the Division of Elementary and Secondary Education within the scope of their duties in recognized public and private schools;

(2) Nonresident persons engaged in consulting or research activities in counseling for a period not greater than thirty (30) days in a calendar year;

(3) Clergymen insofar as their activities and services are a part of the official duties in salaried positions;

(4) Practitioners of medicine;

(5) Psychologists;

(6) Social workers;

(7) Listed Christian Science practitioners insofar as their activities and services are a part of the official duties;

(8) Individuals offering volunteer services who are approved by the organization or agency for whom the service is rendered;

(9) Persons in the employ of the federal, state, or local government or accredited institutions of higher education, insofar as their activities and services are a part of the official duties in salaried positions; or

(10) Other professionals, provided that:

(A) Such persons hold valid licenses, certificates, or registrations in the State of Arkansas and are operating within the scope of their professional duties; and

(B) The title "licensed professional counselor", "licensed associate counselor", "licensed marriage and family therapist", or "licensed associate marriage and family therapist" is not used.

(c) Students engaged in counselor training programs and other persons preparing for the profession of licensed counselor may perform

as part of their training the functions specified in § 17-27-102, provided that such functions are performed under supervision of a licensed professional counselor.

History. Acts 1979, No. 593, §§ 15, 18; 1979, No. 1014, § 1; A.S.A. 1947, §§ 71-5215, 71-5218; Acts 1997, No. 244, § 1; 2019, No. 910, § 2240.

Amendments. The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of Education" in (b)(1).

SUBCHAPTER 2 — ARKANSAS BOARD OF EXAMINERS IN COUNSELING

SECTION.

17-27-203. Duties and powers.

17-27-203. Duties and powers.

(a) The Arkansas Board of Examiners in Counseling shall perform those duties and have those powers as this chapter prescribes and confers upon it.

(b) The board shall adopt rules and procedures as it deems necessary for the performance of its duties.

(c) The board shall adopt the Code of Ethics of the American Counseling Association and any revisions or additions deemed appropriate by this board to govern appropriate practice or behavior referred to in this chapter.

(d) The board shall adopt the Code of Ethics of the American Association for Marriage and Family Therapy to govern licensed marriage and family therapists and licensed associate marriage and family therapists.

(e) The board is required to charge an application fee determined by the board.

(f) The board shall be empowered to accept grants from foundations and institutions to carry on its functions and to hire assistants as are necessary to perform its activities.

History. Acts 1979, No. 593, §§ 2, 4, 6; A.S.A. 1947, §§ 71-5202, 71-5204, 71-5206; Acts 1997, No. 244, § 3; 2019, No. 315, § 1386.

Amendments. The 2019 amendment deleted "regulations" following "rules" in (b).

SUBCHAPTER 3 — LICENSING

SECTION.

17-27-301. Licensed professional counselor — Qualifications.

17-27-303. Licensed marriage and family therapist — Qualifications — Application before January 1, 1998.

17-27-304. Licensed marriage and family therapist — Qualifications

SECTION.

— Application after January 1, 1998.

17-27-306. Examination.

17-27-308. Reciprocity.

17-27-309. Suspension or revocation.

17-27-313. Criminal background checks.

17-27-301. Licensed professional counselor — Qualifications.

The Arkansas Board of Examiners in Counseling shall issue a license as a licensed professional counselor to each applicant who files an application upon a form and in the manner that the board prescribes accompanied by a fee as set by the board and who furnishes satisfactory evidence of the following to the board:

- (1) The applicant is not a minor under the laws of Arkansas;
- (2) The applicant is highly regarded in professional ethics;
- (3) The applicant is not in violation of any of the provisions of this chapter and the rules adopted under this chapter;
- (4) The applicant has applied for a criminal background check and has not been found guilty of, or pleaded guilty or nolo contendere to, any of the offenses listed in § 17-27-313(e) [repealed];

(5)(A) The applicant has received a graduate degree from a regionally accredited institution of higher education that is primarily professional counseling in content and has accumulated the graduate semester hours that meet the academic and training content standards established by the board.

(B) The board shall use the standards for the preparation of counselors prepared by that special professional association nationally as a guide in establishing the standards for counseling;

(6)(A) The applicant has three thousand (3,000) client contact hours of supervised full-time experience in professional counseling acceptable to the board.

(B) Two thousand (2,000) client contact hours of experience may be gained for each sixty (60) graduate semester hours earned beyond the master's degree, provided that the hours are clearly related to the field of counseling and are acceptable to the board.

(C) The applicant may not have less than one thousand (1,000) client contact hours of professional experience; and

(7)(A) The applicant has declared special competencies and demonstrated professional competence in specialty areas by having passed a written, oral, or situational examination or any combination thereof as the board will prescribe.

(B) Upon the examination of credentials, the board, by a majority of the board members present and voting, may consider those credentials adequate evidence of professional competence and recommend to the Chair of the Arkansas Board of Examiners in Counseling that a license be approved in that specialty.

History. Acts 1979, No. 593, § 8; A.S.A. 1947, § 71-5208; Acts 1993, No. 1219, § 6; 1997, No. 244, § 4; 1997, No. 1317, § 2; 2003, No. 753, § 1; 2019, No. 315, § 1387; 2019, No. 370, § 1; 2019, No. 990, § 31.

Amendments. The 2019 amendment by No. 315 deleted "and regulations" following "rules" in (3).

The 2019 amendment by No. 370 substituted "three thousand (3,000) client contact hours" for "three (3) years" in the introductory language of (6)(A); in (6)(B), substituted "Two thousand (2,000) client contact hours" for "One (1) year", and substituted "sixty (60) graduate semester hours" for "thirty (30) graduate semester

hours"; and substituted "The applicant may not have less than one thousand (1,000) client contact hours" for "In no case may the applicant have less than one (1) year" in (6)(C).

The 2019 amendment by No. 990 deleted "personal character and" preceding "professional" in (2).

17-27-303. Licensed marriage and family therapist — Qualifications — Application before January 1, 1998.

The Arkansas Board of Examiners in Counseling shall issue a license as a licensed marriage and family therapist to each applicant who files an application upon a form and in the manner as the board prescribes accompanied by a fee as set by the board and who furnishes satisfactory evidence of the following to the board:

- (1) The applicant is not a minor under the laws of Arkansas;
- (2) The applicant is highly regarded in professional ethics;
- (3) The applicant is not in violation of any of the provisions of this chapter and the rules adopted hereunder;
- (4) The applicant has received a graduate degree in either marriage and family therapy or a related field with specific course work in marriage and family therapy as approved by the board; and
- (5) The applicant has at least five (5) years of clinical experience in the practice of marriage and family therapy or clinical membership in the American Association for Marriage and Family Therapy or the National Academy of Certified Family Counselors or certification by an appropriate professional organization, as defined by the board.

History. Acts 1997, No. 244, § 4; 2019, No. 315, § 1388; 2019, No. 990, § 32.

Amendments. The 2019 amendment by No. 315 deleted "and regulations" following "rules" in (3).

The 2019 amendment by No. 990 deleted "personal character and" preceding "professional" in (2).

17-27-304. Licensed marriage and family therapist — Qualifications — Application after January 1, 1998.

The Arkansas Board of Examiners in Counseling shall issue a license as a marriage and family therapist to each applicant who files an application after January 1, 1998, upon a form and in a manner as the board prescribes accompanied by a fee as set by the board if he or she meets the qualifications set forth in § 17-27-303(1)-(3) and if the applicant provides satisfactory evidence to the board that he or she:

- (1) Meets educational experience qualifications as follows:

(A) **EDUCATIONAL REQUIREMENTS.** A master's degree or a doctoral degree in marriage and family therapy from a regionally accredited educational institution or a graduate degree in the allied fields referred to in § 17-27-303(4) from a regionally accredited educational institution and graduate level course work which is equivalent to a master's degree in marriage and family therapy as determined by the board; and

(B) **EXPERIENCE REQUIREMENTS.** The applicant has three thousand (3,000) client contact hours of supervised full-time experience in marriage and family therapy acceptable to the board. Two thousand (2,000) client contact hours may be gained for each sixty (60) graduate semester hours earned beyond the master's degree, provided that the hours are clearly related to the field of marriage and family therapy and are acceptable to the board. The applicant may not have less than one thousand (1,000) client contact hours of professional supervised experience; and

(2) Passes an examination or examinations administered by the board.

History. Acts 1997, No. 244, § 4; 2019, No. 370, § 2.

Amendments. The 2019 amendment rewrote (1)(B).

17-27-306. Examination.

(a)(1) The Arkansas Board of Examiners in Counseling shall provide approval before an applicant is allowed to sit for examination.

(2) The board shall designate the time and place of any examination in advance of any examination.

(b) The board is required to preserve examination materials in accordance with state rules.

(c)(1) In the event that an applicant fails to pass an examination, he or she may reapply and may be allowed to take a subsequent examination.

(2) An applicant who fails an examination shall wait three (3) months before taking a subsequent examination.

History. Acts 1979, No. 593, § 11; A.S.A. 1947, § 71-5211; Acts 1997, No. 244, § 4; 2019, No. 370, § 3.

Amendments. The 2019 amendment rewrote the section.

17-27-308. Reciprocity.

At its discretion, the Arkansas Board of Examiners in Counseling may waive formal examination requirements of a candidate who is licensed or certified to practice counseling or marriage and family therapy by a similar board in another state if, in the opinion of the Arkansas Board of Examiners in Counseling, the standards and qualifications required for the practice of counseling in the candidate's licensing state are at least equal to those required by this chapter.

History. Acts 1979, No. 593, § 13; A.S.A. 1947, § 71-5213; Acts 1997, No. 244, § 4; 2019, No. 370, § 4.

Amendments. The 2019 amendment deleted the (a) designation; and deleted (b).

17-27-309. Suspension or revocation.

(a) The Arkansas Board of Examiners in Counseling shall have the power to suspend or revoke a license issued under this chapter or

impose other appropriate restrictions or additional sanctions, including without limitation supervision, probation, counseling, or additional education, for any person:

(1) Found guilty of violating any ethical or professional standard; or

(2) Placed upon a registry of this state or another state in regards to public safety, including without limitation a child maltreatment registry, an adult maltreatment registry, or a sex offender registry.

(b) The board shall revoke the license of any person who is found guilty of or pleads guilty or nolo contendere to any offense listed in § 17-27-313(e) [repealed] unless the person requests and the board grants a waiver pursuant to § 17-27-313(g) [repealed].

History. Acts 1979, No. 593, § 17; A.S.A. 1947, § 71-5217; Acts 1997, No. 244, § 4; 1997, No. 1317, § 4; 2019, No. 370, § 5. **Amendments.** The 2019 amendment rewrote (a).

17-27-311. Privileged communication.

CASE NOTES

Cited: Vaughn v. State, 2020 Ark. 313, 608 S.W.3d 569 (2020).

17-27-313. Criminal background checks.

(a) The Arkansas Board of Examiners in Counseling may require each applicant for license renewal and each first-time applicant for a license issued by the board to apply to the Identification Bureau of the Division of Arkansas State Police for a state and national criminal background check, to be conducted by the Identification Bureau of the Division of Arkansas State Police and the Federal Bureau of Investigation.

(b) The check shall conform to the applicable federal standards and shall include the taking of fingerprints.

(c) The applicant shall sign a release of information to the board and shall be responsible for the payment of any fee associated with the criminal background check.

(d) Upon completion of the criminal background check, the Identification Bureau of the Division of Arkansas State Police shall forward to the board all releasable information obtained concerning the applicant.

(e) The board may issue a six-month nonrenewable letter of provisional eligibility for licensure to a first-time applicant pending the results of the criminal background check.

(f) For the purposes of this section, the board shall follow the licensing restrictions based on criminal records under § 17-3-102.

(g)(1) Any information received by the board from the Identification Bureau of the Division of Arkansas State Police under this section shall not be available for examination except by:

(A) The affected applicant for licensure, or his or her authorized representative; or

(B) The person whose license is subject to revocation, or his or her authorized representative.

(2) No record, file, or document shall be removed from the custody of the Division of Arkansas State Police.

(h) Any information made available to the affected applicant for licensure or the person whose license is subject to revocation shall be information pertaining to that person only.

(i) Rights of privilege and confidentiality established under this section shall not extend to any document created for purposes other than this background check.

(j) The board shall adopt the necessary rules to fully implement the provisions of this section.

History. Acts 1997, No. 1317, § 5; 2003, No. 1087, § 14; 2003, No. 1388, § 1; 2005, No. 2277, § 1; 2011, No. 570, § 120; 2017, No. 367, § 16; 2017, No. 664, § 10; 2019, No. 315, § 1389; 2019, No. 990, § 33.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (k) (now(j)).

The 2019 amendment by No. 990 deleted former (e); redesignated former (f)(1) as (e); deleted former (f)(2) and (g); and inserted (f) and redesignated the remaining subsections accordingly.

SUBCHAPTER 4 — LICENSING ALCOHOLISM AND DRUG ABUSE COUNSELORS

SECTION.

17-27-401. Definitions.

17-27-403. Exemptions.

SECTION.

17-27-406. Powers and duties of board.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

17-27-401. Definitions.

As used in this subchapter:

(1) “Licensed alcoholism and drug abuse counselor” means a person who renders for compensation alcoholism and drug abuse counseling or alcoholism and drug abuse counseling-related services to an individual, group, organization, corporation, institution, or to the general public,

and who holds a license issued by the State Board of Examiners of Alcoholism and Drug Abuse Counselors or by another health or behavioral sciences board to engage in the practice of alcoholism and drug abuse counseling;

(2) "Practice of alcoholism and drug abuse counseling" means the professional activity of helping individuals, groups, organizations, corporations, institutions, or the general public to develop an understanding of alcoholism and drug dependency problems and to define goals and plan action reflecting the individual's or group's interests, abilities, and needs as affected by claimed alcoholism and drug dependency problems. It includes the professional application of values, principles, and techniques to one (1) or more of the following ends:

- (A) Counseling with individuals, families, and groups;
- (B) Helping people obtain tangible services;
- (C) Assisting communities or groups;
- (D) Providing or improving social and health services; and
- (E) Engaging in alcoholism and drug abuse education and prevention through the appropriate administration of alcoholism and drug abuse counseling services;

(3) "Registered clinical supervisor" means a person registered by the State Board of Examiners of Alcoholism and Drug Abuse Counselors to provide clinical supervision of applicants for certification or licensure; and

(4) "Supervised work experience" means paid or voluntary work experience as an alcohol and drug abuse counselor who provides alcohol and drug abuse counseling services under the supervision of a credentialed alcohol and drug abuse counselor to persons with alcoholism or other drug dependency, or both.

History. Acts 1999, No. 1588, § 1; **Amendments.** The 2019 amendment 2009, No. 443, § 1; 2019, No. 386, § 18. deleted former (1).

17-27-403. Exemptions.

(a) This subchapter is not applicable to employees of the Division of Elementary and Secondary Education or local boards of education who meet the certification as established or which may be established by the State Board of Education.

(b) This subchapter does not:

(1) Limit or restrict the regulation of the title, setting of standards, qualifications, training, or experience of those who seek to engage in the practice of alcoholism and drug abuse counseling and who have been or will be certified by the State Board of Examiners of Alcoholism and Drug Abuse Counselors for the position for which they have been employed;

(2) Require persons employed by the State of Arkansas, the director or administrative head of a social service agency or division of a city or county, or applicants for such employment to be licensed;

(3) Limit the activities and services of a student or intern seeking to fulfill the educational requirements in order to qualify for a license under this subchapter or acts of other recognized health or behavioral sciences professions;

(4) Prohibit individuals not licensed under the provisions of this subchapter who work in self-help groups or programs or not-for-profit organizations from providing services in those groups, programs, or organizations or agencies;

(5) Prevent qualified members of other recognized health or behavioral science professions from performing work within the standards and ethics of their respective professions;

(6) Prevent persons licensed under other health or behavioral science boards from the practice of alcoholism and drug abuse counseling so long as those persons maintain current licensure in their respective fields;

(7) Prevent members of the clergy or Christian Science practitioners from performing work within the standards and any code of ethics of their respective professions as long as they do not hold themselves out to the public as being licensed alcoholism and drug abuse counselors; or

(8) Restrict the licensure of programs under §§ 20-64-901 — 20-64-909.

History. Acts 1999, No. 1588, § 3; 2019, No. 386, § 19; 2019, No. 910, § 2241.

Amendments. The 2019 amendment by No. 386 redesignated (a)(1) as (a) and (a)(2) as the introductory language of (b) and (b)(1); substituted “This subchapter is not” for “Nothing contained in this subchapter shall be” in (a); substituted “This subchapter does not” for “Nothing in this subchapter shall be construed to limit” in the introductory language of (b); in (b)(1), added “Limit” and substituted “State Board of Examiners of Alcoholism and Drug Abuse Counselors” for “board”; redesignated former (b) through (h) as (b)(2) through (b)(8); substituted “Require” for

“Nothing contained in this subchapter shall require” in (b)(2); substituted “Limit” for “Nothing contained in this subchapter shall be construed to limit” in (b)(3); substituted “Prohibit” for “Nothing contained in the subchapter shall prohibit” in (b)(4); substituted “Prevent” for “Nothing contained in this subchapter shall be construed to prevent” in (b)(5) through (b)(7); and substituted “Restrict” for “Nothing contained in this subchapter shall be construed to restrict” in (b)(8); and made stylistic changes.

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a)(1) (now (a)).

17-27-406. Powers and duties of board.

(a) The State Board of Examiners of Alcoholism and Drug Abuse Counselors shall administer and enforce the provisions of this subchapter and shall adopt rules consistent with its provisions, including a code of ethical practice.

(b) The board shall review and act upon applications for licensure and certification at least four (4) times a year and shall regulate the renewal of licenses or certifications.

(c) The board may conduct hearings on charges calling for the denial, revocation, or suspension of a license or certification or issuance of a monetary fine, shall adopt rules for the conduct of the hearings, and

shall cause the prosecution of all persons who violate any provisions of this subchapter or any rule promulgated pursuant to its provisions.

(d) The board may sue and be sued in its own name.

(e) The Department of Health may employ any persons it deems necessary to carry on the work of the board and the department shall define their duties and fix their compensation within the limits prescribed by law.

(f) The board shall maintain a register of all individuals licensed or certified under the provisions of this subchapter. The register shall be a public record.

(g) The board shall keep a complete record of all of its proceedings.

(h)(1) The board shall set by rule a fee schedule for:

(A) Applications for licensure;

(B) Examinations;

(C) Renewal of licensure;

(D) Late fees;

(E) Fines; and

(F) Administrative costs.

(2) The fees shall be set at a level sufficient to cover the cost of supporting the duties of the board, hiring persons necessary to carry on the work of the board, and other functions necessary for the successful operation of the board.

History. Acts 1999, No. 1588, § 6; 2013, No. 1249, §§ 1, 2; 2019, No. 315, § 1390; 2019, No. 910, § 4860.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (a).

The 2019 amendment by No. 910, in (e), substituted “Department of Health” for “board” at the beginning, and inserted “the department”.

CHAPTER 28

ELECTRICIANS

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. BOARD OF ELECTRICAL EXAMINERS OF THE STATE OF ARKANSAS.
3. LICENSING.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

17-28-102. Construction and exemptions
— Definition.

SECTION.

17-28-103. Disposition of funds.

Effective Dates. Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of

certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two

uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of

the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

17-28-102. Construction and exemptions — Definition.

(a) The provisions of this chapter shall not apply to:

(1) The construction, installation, maintenance, repair, or renovation by any public utility, as that term is defined by § 23-1-101(9)(A), by any rural electric association or cooperative, or by any municipally owned utility, of any transmission or distribution lines or facilities incidental to their business and covered under other nationally recognized safety standards or to any other such activity when performed by any duly authorized employee, agent, contractor, or subcontractor of any such public utility, association, cooperative, or municipally owned utility;

(2) The construction, installation, maintenance, repair, or renovation by any industry, as that term is defined in subsection (f) of this section, of any electric conductors or equipment or facilities incidental to their business and covered under other nationally recognized safety standards or to any other such activity when performed by any duly authorized employee of any such industry;

(3) The construction, installation, maintenance, repair, or renovation of telephone equipment, computer systems, or satellite systems by a person, firm, or corporation engaged in the telecommunications or information systems industry when such activities involve low-voltage work exclusively for communication of data, voice, or other signaling purposes, including fire alarm systems, security systems, and environmental control systems that are not an integral part of a telecommunications system;

(4) The construction, installation, maintenance, repair, or renovation of any nonresidential farm building or structure;

(5) The construction and manufacture of manufactured homes covered by the Manufactured Home Construction and Safety Standards Act, 42 U.S.C. § 5401 et seq.; and

(6) Any industry, as that term is defined in subsection (f) of this section, or group of industries under common ownership or control, with assets in this state of one billion dollars (\$1,000,000,000) or more, provided that the exemption provided in this subdivision (a)(6) shall only apply to projects commenced between July 1, 2001, and December 31, 2003.

(b) Nothing in this chapter shall be construed to require an individual to hold a license before doing electrical work on his or her primary residence except as otherwise required by state law, rules, regulations, or local ordinances. The exemption from compliance with

the licensing standards shall not be referred to in any way and shall not be any evidence of the lack of negligence or the exercise of due care by a party at a trial of any civil action to recover damages by any party.

(c)(1) Any holder of a state-issued heating, ventilation, air conditioning, and refrigeration, or HVACR, license may run line voltage power wiring in compliance with the state electric code from a disconnect box to an outdoor HVACR unit within a distance not to exceed ten feet (10') from any point of the HVACR equipment without obtaining an electrician's license as required by this chapter.

(2) Any person licensed by the Commission on Water Well Construction pursuant to the provisions of the Arkansas Water Well Construction Act, § 17-50-101 et seq., and subject to that commission's rules and to the National Electrical Code may run power and control wiring from an existing disconnect box to water well equipment without obtaining an electrician's license as required by this chapter. Nothing in this subdivision (c)(2) shall be construed to allow a licensed water well installer or contractor to alter the existing electrical service to any building or structure.

(d) Nothing in this chapter shall be construed as repealing, modifying, or affecting in any way the provisions of § 17-25-101 et seq.

(e) Nothing in this chapter shall be construed to require an employee of a hospital to hold a license in order to perform minor repairs or make minor alterations to existing electrical facilities during the normal performance of his or her duties with a hospital licensed by the Department of Health.

(f) For the purposes of this chapter, the term "industry" means manufacturing, processing and refining facilities, warehouses, distribution facilities, repair and maintenance facilities, agricultural facilities, and corporate and management offices located on industrial sites.

History. Acts 1979, No. 870, § 13; A.S.A. 1947, § 71-5312n; Acts 1997, No. 1289, § 2; 1999, No. 493, § 1; 1999, No. 894, § 1; 2001, No. 1776, § 1; 2019, No. 315, §§ 1391, 1392.

A.C.R.C. Notes. The Manufactured Home Construction and Safety Standards Act, 42 U.S.C. § 5401 et seq., referred to

in § 17-28-102(a)(5) is presently known as the "National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401 et seq."

Amendments. The 2019 amendment inserted "rules" in the first sentence of (b); and substituted "rules" for "regulations" in the first sentence of (c)(2).

17-28-103. Disposition of funds.

All funds received by the Board of Electrical Examiners of the State of Arkansas under the provisions of this chapter shall be deposited as special revenues into the State Treasury to the credit of the Department of Labor and Licensing Special Fund, there to be used by the Division of Labor in carrying out the functions, powers, and duties as set out in this chapter and to defray the costs of the maintenance, operation, and improvements required by the division in carrying out the functions, powers, and duties otherwise imposed by law on the division or the Director of the Division of Labor.

History. Acts 1997, No. 1289, § 3; 2001, No. 577, § 5; 2019, No. 910, § 5419.

Amendments. The 2019 amendment inserted "and Licensing", substituted "Di-

vision of Labor" for "Department of Labor" twice, and substituted "division" for "department" twice.

SUBCHAPTER 2 — BOARD OF ELECTRICAL EXAMINERS OF THE STATE OF ARKANSAS

SECTION.

17-28-201. Creation — Members.

17-28-202. Duties of Board of Electrical Examiners of the State of Arkansas and Department of Labor and Licensing.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

17-28-201. Creation — Members.

(a) There is created a Board of Electrical Examiners of the State of Arkansas.

(b) The board shall consist of the Secretary of the Department of Labor and Licensing or his or her authorized representative and eight (8) other members who shall be residents of this state appointed by the Governor with the advice and consent of the Senate:

(1) One (1) member shall be the chief electrical inspector of a municipality within the state;

(2) One (1) member shall be a licensed professional engineer as defined in § 17-30-101 engaged primarily in the design or maintenance of electrical installations;

(3) One (1) member shall be an electrical contractor operating in this state;

(4) One (1) member shall be a master or supervising electrician;

(5) One (1) member shall be a representative of a public electric utility operating in this state;

(6) One (1) member shall be a representative of a private electric utility operating in this state;

(7) One (1) member shall represent the public and shall not be affiliated with any of the other groups represented on the board; and

(8) One (1) member shall represent the elderly, shall be sixty (60) years of age or older, and not actively engaged as or retired as an electrician. This member shall be appointed from the state at large, subject to confirmation by the Senate, and shall be a full voting member but shall not participate in the grading of examinations.

(c) The same person may not be both the public representative and the representative of the elderly.

(d) Each appointment shall be for a term of four (4) years or until a successor is appointed.

(e) In the event of a vacancy during a term, the Governor may appoint a replacement to fulfill the unexpired portion of the term.

(f) The board shall elect one (1) of its members to act as its chair for a term of one (1) year, and he or she shall have a vote on all matters before the board.

(g) For cause and after a hearing, any appointed member may be removed from office by the Governor.

(h) Each appointed member may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

History. Acts 1979, No. 870, § 2; 1983, No. 131, §§ 1-3, 5; 1983, No. 135, §§ 1-3, 5; A.S.A. 1947, §§ 6-623 — 6-626, 71-5302; Acts 1997, No. 250, § 135; 2011, No. 897, § 13; 2019, No. 910, § 5420.

Amendments. The 2019 amendment substituted "Secretary of the Department of Labor and Licensing" for "Director of the Department of Labor" in (b).

17-28-202. Duties of Board of Electrical Examiners of the State of Arkansas and Department of Labor and Licensing.

(a) It shall be the duty of the Board of Electrical Examiners of the State of Arkansas to:

(1) Adopt rules necessary for the implementation of this chapter and § 17-55-101 et seq.;

(2) At least every six (6) months, conduct examinations of persons who apply for an electrician's license and grant licenses to qualifying applicants who have paid the prescribed fee;

(3) Grant licenses to qualifying applicants for an electrical inspector's license under § 17-55-101 et seq.; and

(4) Revoke or suspend the license of any licensee or the certification of any electrical apprentice for cause.

(b)(1) It shall be the duty of the Department of Labor and Licensing to administer and enforce the provisions of this chapter.

(2) For the enforcement of this chapter, the Secretary of the Department of Labor and Licensing or his or her designated employees shall have the authority to enter, during normal business hours, upon any private or public premises with right of access, ingress, and egress for the purpose of ascertaining whether a person has performed electrical work or installed or repaired electrical facilities in accordance with this chapter, the Arkansas Electrical Code Authority Act, § 20-31-101 et seq., and the rules and standards adopted pursuant thereto.

History. Acts 1979, No. 870, § 3; 1981, No. 701, § 1; 1983, No. 866, § 2; A.S.A. 1947, § 71-5303; Acts 1997, No. 1289, § 4; 2013, No. 756, § 1; 2019, No. 315, § 1393; 2019, No. 910, § 5421.

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations” in (b)(2).

The 2019 amendment by No. 910 substituted “Department of Labor and Licensing” for “Department of Labor” in (b)(1); and substituted “Secretary of the Department of Labor and Licensing” for “Director of the Department of Labor” in (b)(2).

SUBCHAPTER 3 — LICENSING

- SECTION.
- 17-28-301. Electrician’s license — Issuance and renewal — Fees.

17-28-307. Restricted lifetime master and journeyman electrician license.

17-28-308. Electrical apprentices.

17-28-309. Penalties.
- SECTION.

17-28-310. Grandfather clause.

17-28-313. Powers of Career Education and Workforce Development Board.

17-28-314. State Electrical Apprenticeship Committee.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

17-28-301. Electrician’s license — Issuance and renewal — Fees.

- (a) Individuals passing the master, journeyman, residential master, residential journeyman, air conditioning electrician, specialist sign electrician, or industrial maintenance electrician’s examination as specified in § 17-28-203 shall be issued a license of the same class as that of the examination upon payment of the following fees:

(1) Master electrician	\$50.00
(2) Journeyman electrician	25.00
(3) Industrial maintenance electrician	25.00
(4) Residential master electrician	50.00
(5) Residential journeyman electrician	25.00
(6) Air conditioning electrician	25.00
(7) Specialist sign electrician	25.00.

(b)(1) Licenses shall expire on the date indicated on the licenses.

(2) The license may be renewed for a period of one (1), two (2), or three (3) years with the fee to be as follows:

- (A) Master electrician \$50.00 per year
 - (B) Journeyman electrician 25.00 per year
 - (C) Industrial maintenance electrician 25.00 per year
 - (D) Residential master electrician 50.00 per year
 - (E) Residential journeyman electrician 25.00 per year
 - (F) Air conditioning electrician 25.00 per year
 - (G) Specialist sign electrician 25.00 per year.
- (3) A licensee may renew his or her license within thirty-six (36) months following the expiration date on the license by paying:
- (A) The renewal fee under subdivision (b)(2) of this section;
 - (B) A late fee equal to one (1) year of the renewal fee plus ten dollars (\$10.00) for each calendar month between the expiration date indicated on the license and the date of application for renewal; and
 - (C) Any outstanding monetary civil penalty.
- (4) If a licensee shall fail to renew his or her license within thirty-six (36) months after the expiration date on the license, the licensee may reinstate his or her license by paying:
- (A) The fees and any applicable penalty under subdivision (b)(3) of this section; and
 - (B) An additional penalty of one thousand dollars (\$1,000).
- (5)(A) The Board of Electrical Examiners of the State of Arkansas may, after hearing, deny renewal or reinstatement of a license for cause.
- (B) The applicant for renewal or reinstatement of a license may obtain a temporary license to expire on the date of his or her hearing before the board.
- (6) If a person simultaneously holds an electrical inspector license and a license as a master electrician or a journeyman electrician, the person, when renewing his or her master electrician or journeyman electrician license, shall be exempt from the:
- (A) Renewal fee under this section; and
 - (B) Continuing education requirements for master electricians and journeyman electricians under § 17-28-311.
- (c) The registration fee for an electrical apprentice shall be ten dollars (\$10.00) annually. Apprentice registration certificates shall expire on the last day of the month, one (1) year following the date of original registration.
- (d)(1) The board may issue a temporary license as a master electrician or journeyman electrician that is valid for no more than six (6) months and renewable one (1) time only for industry projects as defined in this chapter, upon submission by the applicant of the following:
- (A) A temporary license fee in the amount established by subsection (a) of this section;
 - (B) A completed application on a form furnished and approved by the board; and
 - (C) Evidence that the applicant:
 - (i) Holds a current license of the same classification issued by another state; or

(ii) Meets the experience qualifications required under rules promulgated by the board for a temporary master electrician or a temporary journeyman electrician.

(2) The Director of the Division of Occupational and Professional Licensing Boards and Commissions may renew a temporary license as a master electrician or journeyman electrician issued by the board for more than one (1) additional period of six (6) months, if:

(A) The renewal is for work to be performed on a specific industry project as defined in this chapter;

(B) The director determines that the additional renewal is necessary because:

(i) Actual construction will exceed one (1) year; and

(ii) An insufficient number of licensed electricians is available to perform the necessary work;

(C) The temporary license is restricted to the industry project for which it is issued; and

(D) A temporary license fee in the amount established in subsection (a) of this section is paid.

(3)(A) The board may issue and renew a temporary license as a master electrician or journeyman electrician for regularly scheduled or emergency maintenance work or shutdowns of not longer than six (6) weeks on industry projects as defined in this chapter.

(B) An applicant for a new or renewed temporary license under subdivision (d)(3)(A) of this section shall submit the same items as are required in subdivision (d)(1) of this section.

(e) A specialist sign electrician under § 17-28-101 shall qualify for an endorsement on his or her license authorizing the licensee to maintain and repair parking lot lights upon successfully passing a separate examination as approved by the board.

History. Acts 1979, No. 870, §§ 5, 6; 2017, No. 476, §§ 1, 2; 2017, No. 766, § 3; 1983, No. 866, § 4; 1985, No. 355, § 1; 2019, No. 910, § 5422.
A.S.A. 1947, §§ 71-5305, 71-5306; Acts 1993, No. 831, § 2; 1997, No. 1289, § 7; 1999, No. 894, § 2; 2007, No. 495, §§ 1, 2; 2009, No. 312, § 1; 2009, No. 1188, § 3; 2013, No. 756, § 2; 2017, No. 381, § 1;

Amendments. The 2019 amendment substituted "Division of Occupational and Professional Licensing Boards and Commissions" for "Department of Labor" in (d)(2).

17-28-307. Restricted lifetime master and journeyman electrician license.

(a)(1) Upon reaching the age of sixty-five (65), or any time thereafter, any person who has been a licensed master electrician or a licensed journeyman electrician licensed by the Board of Electrical Examiners of the State of Arkansas for not less than twelve (12) years may apply for a restricted lifetime master electrician license or a restricted lifetime journeyman electrician license.

(2) This license shall be issued upon satisfactory proof of age and upon payment of a fee prescribed by the board.

(b) Any individual issued a restricted lifetime electrician license after July 28, 2021, shall complete continuing education hours as required by rule of the board for any period in which electrical work is performed for remunerative purposes, whether as an employee or an independent contractor.

(c) The board shall promulgate rules necessary to carry out the provisions of this section.

History. Acts 1995, No. 1121, § 1; 2019, No. 315, § 1394; 2021, No. 720, § 1.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (b).

The 2021 amendment inserted “and journeyman” in the section heading; in-

serted “or a licensed journeyman electrician” and “or a restricted lifetime journeyman electrician license” in (a)(1); inserted (b); and redesignated former (b) as (c).

17-28-308. Electrical apprentices.

(a) Upon proper application and payment of the fee, the Board of Electrical Examiners of the State of Arkansas shall register as an electrical apprentice and issue a certificate of registration to any person who furnishes satisfactory proof that the applicant is enrolled in a school or training course for electrical apprentices certified by the United States Office of Apprenticeship.

(b) The board shall take such actions as are reasonably necessary or appropriate to supervise and enforce apprenticeship supervision ratios established by the board by rule.

(c) Notwithstanding the provisions of subsection (a) of this section, an apprentice who has successfully completed a certified school or training program and has been released for testing may continue to renew his or her apprentice registration card, if otherwise qualified, without enrolling in a school or training program.

History. Acts 1997, No. 1289, § 11; 2001, No. 1776, § 2; 2007, No. 495, § 3; 2019, No. 315, § 1395.

Amendments. The 2019 amendment substituted “rule” for “regulation” in (b).

17-28-309. Penalties.

(a) The Director of the Division of Occupational and Professional Licensing Boards and Commissions is authorized to petition any court of competent jurisdiction to enjoin or restrain any person who performs electrical work without a license or who otherwise violates the provisions of this chapter.

(b)(1) A civil penalty may be assessed against any person, firm, or corporation by the Division of Occupational and Professional Licensing Boards and Commissions and subject to appeal and hearing before the Board of Electrical Examiners of the State of Arkansas according to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., if it is determined that the person, firm, or corporation has violated any:

(A) Provision of this chapter;

(B) Provision in the Arkansas Electrical Code Authority Act, § 20-31-101 et seq.;

(C) Rule or order issued or promulgated by the board; or

(D) Condition of a license, certificate, or registration issued by the board.

(2) For each violation, the penalty shall not exceed the following:

(A) Two hundred fifty dollars (\$250) for a first offense;

(B) Seven hundred fifty dollars (\$750) for a second offense; or

(C) One thousand dollars (\$1,000) for a third offense.

(3) Each day of a continuing violation is a separate violation for purposes of penalty assessment.

(4) Assessment of a civil penalty by the board shall be made no later than two (2) years after the date of the occurrence of the violation.

(5) If any person, firm, or corporation against whom a civil penalty has been imposed fails to pay the penalty within sixty (60) days of the board's decision, the director may file an action in a court of competent jurisdiction to collect the civil penalty without paying costs or giving bond for costs.

(6) Any penalties collected under this section shall be deposited as special revenues into the State Treasury to the credit of the Department of Labor and Licensing Special Fund, there to be used by the Department of Labor and Licensing in carrying out the functions, powers, and duties of this chapter.

History. Acts 1997, No. 1289, § 12; 2003, No. 1055, § 1; 2005, No. 1230, § 1; 2019, No. 315, § 1396; 2019, No. 910, § 5423.

Amendments. The 2019 amendment by No. 315 deleted "regulation" following "Rule" in (b)(1)(C).

The 2019 amendment by No. 910 substituted "Division of Occupational and

Professional Licensing Boards and Commissions" for "Department of Labor" in (a) and in the introductory language of (b)(1); and substituted "Department of Labor and Licensing" for "Department of Labor" in (b)(6).

17-28-310. Grandfather clause.

(a) Applicants for a license under this chapter shall be exempt from the examination requirement of § 17-28-203, provided that the applicant:

(1) Is qualified by experience requirements to take the examination for a particular license classification under the provisions of this chapter and the rules of the Board of Electrical Examiners of the State of Arkansas;

(2) Has not had a municipal electrician's license or a state electrician's license of any classification revoked or suspended for cause;

(3) Submits the appropriate fee; and

(4) Applies for a license before July 1, 1998.

(b) Notwithstanding any provision to the contrary, an applicant for a license under this section shall be exempt from the journeyman electrician examination requirement of § 17-28-203 if he or she has

completed electrical apprenticeship training and education under a bona fide apprenticeship program registered with the United States Office of Apprenticeship and he or she meets the requirements of subdivisions (a)(2)-(4) of this section.

(c) An applicant for a specialist sign electrician license under this chapter shall be exempt from the examination requirement of § 17-28-203 if the applicant:

(1) Is qualified by experience requirements to take the examination for a particular license classification under this chapter and the rules of the board;

(2) Has not had a municipal electrician's license or a state electrician's license of any classification revoked or suspended for cause;

(3) Submits the appropriate fee; and

(4) Applies for the specialist sign electrician license before September 1, 2009.

History. Acts 1997, No. 1289, § 13; 2009, No. 1188, § 4; 2019, No. 315, § 1397.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (a)(1).

17-28-313. Powers of Career Education and Workforce Development Board.

The Career Education and Workforce Development Board shall have the following powers:

(1) To ensure that all persons working as apprentice electricians are properly registered;

(2) To adopt rules as to the qualifications, training, and supervision of apprentice electricians subject to the approval of the Department of Labor and Licensing; and

(3) To adopt rules establishing the roles and duties of the following organizations or officials in the electrical apprenticeship program in compliance with the Revised National Guidelines for Apprenticeship Standards for electrical training as approved and registered with the United States Office of Apprenticeship:

(A) The Office of Skills Development; and

(B) The State Electrical Apprenticeship Committee.

History. Acts 2021, No. 647, § 14.

17-28-314. State Electrical Apprenticeship Committee.

(a) The Career Education and Workforce Development Board shall appoint a State Electrical Apprenticeship Committee consisting of seven (7) voting members as follows:

(1) One (1) member shall be an Arkansas state-licensed journeyman electrician;

(2) One (1) member shall be an engineer, professional or registered, with knowledge of the electrical trade;

(3) Four (4) members shall be Arkansas state-licensed master electricians; and

(4) One (1) member shall be an employer representative who employs electrical apprentices in the State of Arkansas.

(b) One (1) of the voting members shall be appointed from each congressional district, and three (3) of the voting members shall be appointed from the state at large.

(c) The Director of the Office of Skills Development or his or her designee shall serve as a nonvoting advisory member of the committee.

(d) Voting members shall serve four-year terms.

(e) The members of the committee may receive expense reimbursement in accordance with § 25-16-901 et seq.

(f) The board shall prescribe committee members' qualifications and duties.

(g) The board may remove a member for cause.

History. Acts 2021, No. 647, § 14.

